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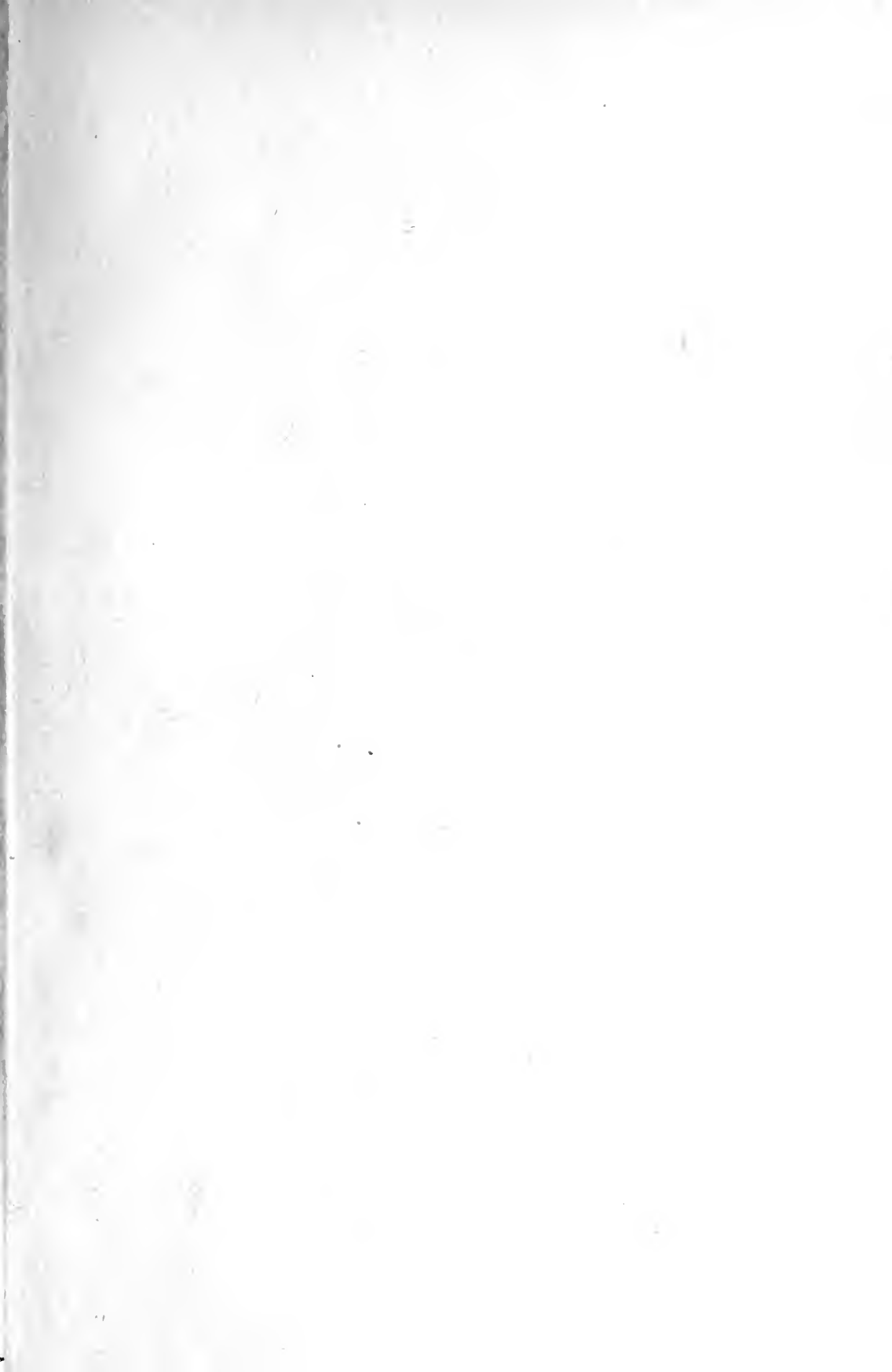




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# THE ANNALS

OF THE

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OF

POLITICAL AND SOCIAL SCIENCE

ISSUED BI-MONTHLY

VOL. XXVI

JULY—DECEMBER 1905

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EDITOR: EMORY R. JOHNSON

ASSOCIATE EDITORS: SAMUEL McCUNE LINDSAY, JAMES T. YOUNG

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PHILADELPHIA

AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE

1905

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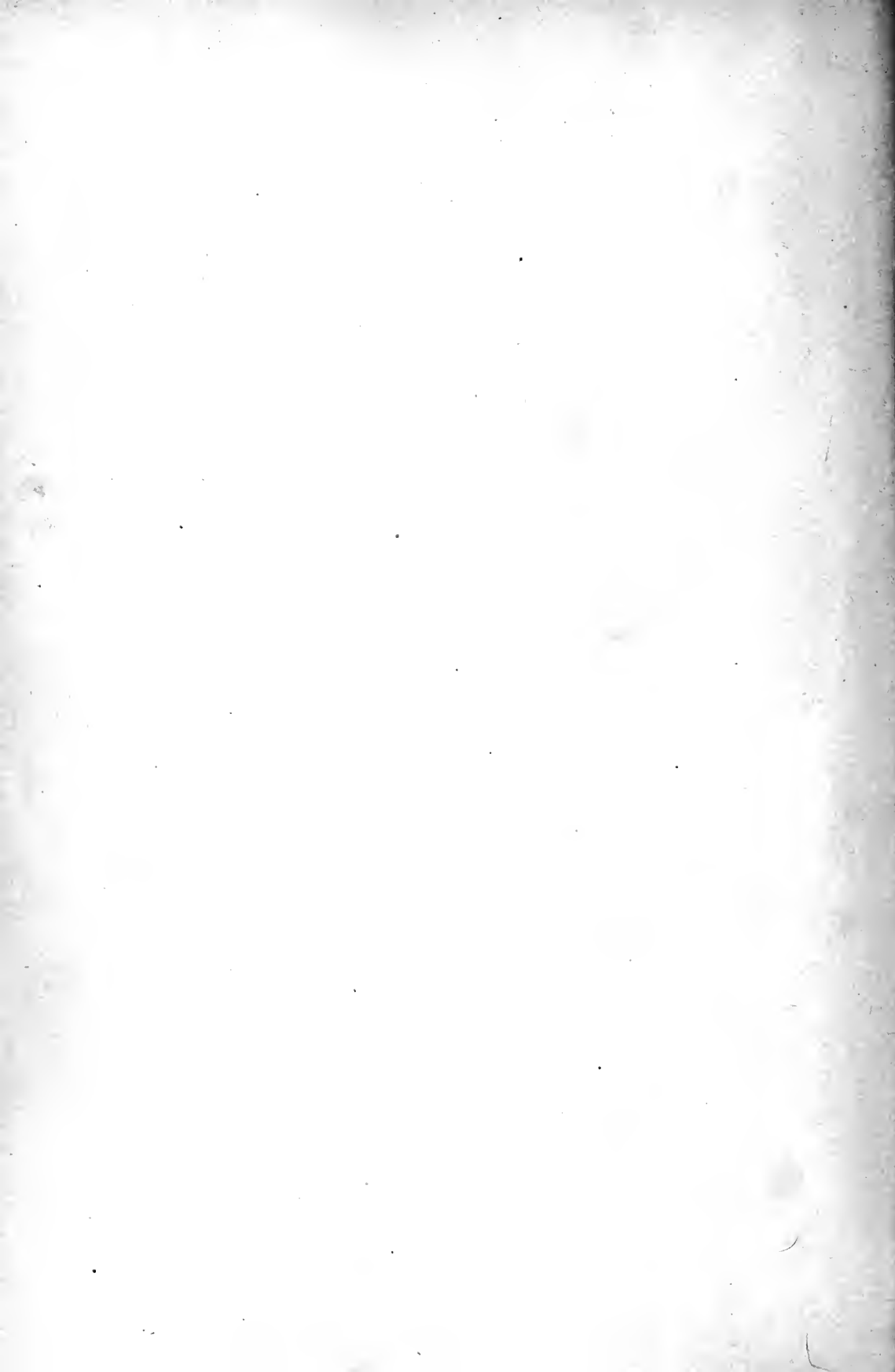
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JULY 1905

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The United States as a World Power  
SPECIAL ANNUAL MEETING NUMBER

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PHILADELPHIA

AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE

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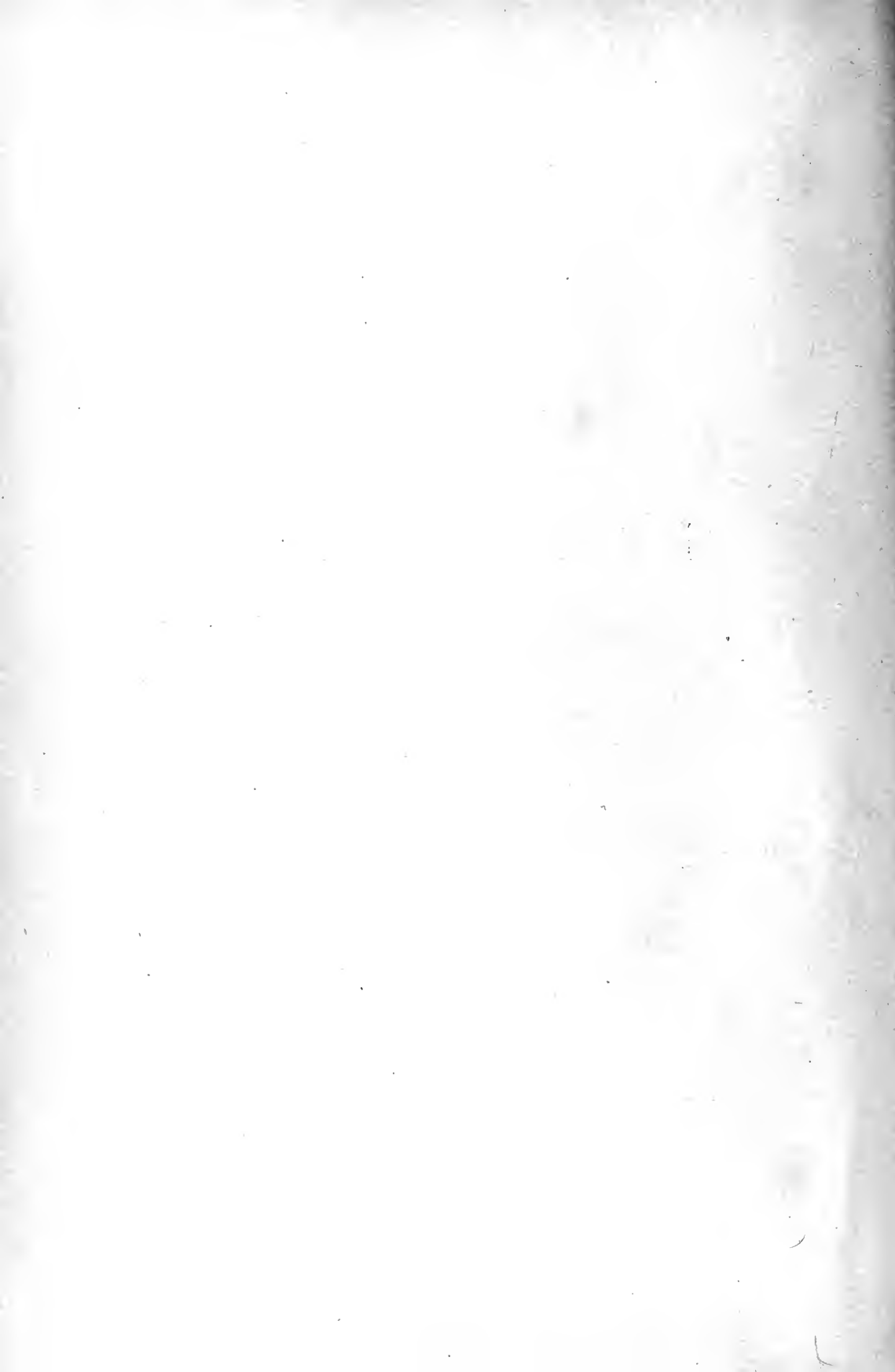


# I. The Annual Address

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## The Position of the United States Among the Nations

By Honorable Seth Low



## THE POSITION OF THE UNITED STATES AMONG THE NATIONS

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By. HON. SETH LOW,  
New York City.

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It is not an uncommon thing to hear men say that "the future belongs to the United States"; or, that "the United States is the country of the future." By either of these expressions they mean, it is fair to suppose, that the United States, being already one of the great powers, has a larger margin for growth than any other nation, in respect both of population and resources. Russia, indeed, has a vaster territory and a larger population; but recent events have shown that Russia must be modernized before she can greatly count, outside of the regions that are hers by nature. In the distant future she may yet play a very great part; for the immediate future, her influence has been very much reduced. Russia, moreover, almost of necessity, can be a great power only on the land. On the north, her long coast line borders upon a frozen ocean. In Europe she can reach the open sea, that great highway of the nations, only, so to speak, through the neck of a bottle. At the south even this neck has long been closed to her ships of war. At the north, either of her great maritime neighbors could equally deprive her of access to the open sea were it their wish to do so. In Asia she has but one port upon the ocean, now that Port Arthur and Dalny have been lost, and that port, Vladivostock, is closed by ice for half of the year. Under these circumstances it is not strange that Russia has wholly failed to develop a race of sailors capable of making her illustrious upon the ocean. Whatever be her destiny, it must be achieved, one would say, by virtue of her strength on the land. The war with Japan, now going on, has revealed the limits of that strength at the present time in the Far East. If it is to be greater in the future, time, money and internal reorganization at home are all necessary. That Russia has vast undeveloped resources

is certain; that her people are capable of a great awakening, accompanied by a corresponding increase of power, cannot be doubted. But the Russia of the future, if she is to play a part in the world worthy of her resources and her numbers, waits on the modernizing in spirit and in method both of her government and of her people.

Russia, of all the great powers, except the United States, is the only one capable of indefinite expansion in population and resources. The situation of the United States, however, is infinitely more fortunate. Separated from other nations of great strength by the width of an ocean, she is comparatively safe from attack, and therefore free, beyond all others, to develop her resources by peaceful industry. All of her home territory, also, lies in the temperate zone, and stretches from ocean to ocean. (If ever a nation were destined to be a world-power, whether it would or not, surely it is the United States.) England has become a world power because it is a little island that can give occupation at home neither to its men nor its money. The United States has become a world-power partly by inviting all Europe to share in its destinies and partly because it fills so large a space in the world, literally and actually, on land and sea alike, that it can neither keep itself out of world movements, if it wished to do so, nor be kept out by others. A nation cannot live to itself alone, and continue to be either great or strong. The law of life of a healthy nation is that it shall do its share of the world's work as well as its own, precisely as the law of life of a healthy man is that he shall live for others as well as for himself.

The influence and power of a nation, however, depend, not so much upon its population and resources, as upon the character, the capacity and, especially, the ideals of its people. China is the most populous of nations, and the territory that it occupies is very extensive. Every addition to our knowledge of it increases our estimate of its resources. But the Chinese have never been a world-power in the modern sense of that phrase, because their ideal has been to keep the world out of China, rather than to allow China to come into living contact with the rest of the world. It is important, therefore, in the consideration of our subject to consider the world-powers of to-day from this point of view.

England has long been a world-power, as has been already said, because the island itself is small, and unable to give sufficient



occupation at home either to its men or its money. The island would have been quite large enough for its own people if the people that occupied it had not been of a race whose qualities carried them early to the front. Their island position made them at home upon the sea, and their qualities as sailors and fighters in time gave them command of the sea, and carried their flag into every quarter of the globe. The English, also, were the earliest in the field of mechanical invention, and introduced the great revolution in industry from hand to machine power which has changed the face of the world. Being first in this field, and having command of the seas, they were able to accumulate vast wealth before the other nations of the world were able to reorganize their industries on the new basis. The English people, moreover, have developed a colonizing power that has enabled them to hold permanently distant regions of the earth, which have been won, at the outset, through the prowess of their arms. The achievements of England in commerce, in manufactures, and in government, are among the great achievements of the race. There is no reason to suppose that the genius of the English people has been impaired in any way in these later times; but, within the last century, other nations have developed their resources and the capacity to utilize them, until to-day England finds herself confronted with a rivalry in commerce and manufacture that has not, indeed, as yet seriously affected the volume of her activities, but which has already cost her her primacy in some products of the first importance. The position of England as a world-power to-day, therefore, is not so much that of unquestioned primacy as more nearly that of "first among equals."

The French people, always keen for adventure, were early among the nations in seeking control of distant territories. Unhappily for the French, they have never, as a people, developed the colonizing quality which has enabled them to hold the distant territory which they have won against a colonizing people like the English. In Africa, however, and to a small extent in Asia, the French maintain colonies that have all the merits and many of the weaknesses historically associated with French movements of that character. The French have been from time immemorial distinctly a military people, devoted to glory and indulging constantly in war. It was said, however, of the first Napoleon, the greatest military genius of modern times, that, like the fabled giant of antiquity, he was strong

only when he touched the earth; that the narrowest stretch of water, like the English Channel, was enough to mark the limitations of his power. France, with its long sea coast, has always produced men who were sailors by nature and by the habit of their lives. But the interests of France, throughout the centuries, have always been so much greater upon the European continent than upon the ocean, or beyond, that such sailors have never been bred in sufficient numbers to maintain the mastery of the sea when that has been in question. Furthermore, the leadership that has been often so marvellous in the armies of France has seldom been discovered in the conduct of its maritime affairs. France, however, is undoubtedly one of the great world-powers of the twentieth century, and one whose influence is likely to be felt wherever the interests of France are thought to be concerned. For France is not only military, she is scientific and artistic above all others, and plays as great a part in the world of thought as in the world of action.

The German Empire is a nation that has become a world-power by virtue of education. The Germans have always been one of the most virile races of Europe, from the time when they first appear upon the scene, in the days of the Romans, up to the present hour; but, for many centuries, the influence of the race was belittled by its divisions, so that until of late years it has had no interests, and practically no influence, outside of the European continent. The battle of Jena crushed the Prussia of that day into the very dust; and in that hour of national humiliation her wise men advanced the ideal for Prussia of a nation in which every individual should be made, by education, an effective military unit and an effective economic unit. The pursuit of this ideal by Prussia, through the course of a century, has changed the face of Europe, and modified the history of the world. It has resulted, in the first place, in a united Germany; and, next, in a Germany whose military power and economic progress are the marvel of our times. Under the leadership of its present wise Emperor the Germany that was content for centuries to be a land-power, has become a commercial and maritime power of the first rank. In no other country is science brought so systematically to bear upon the problems of manufacture, and in no other country is business training so systematically and so widely given. German research has unlocked the secrets of nature for the benefit of mankind, and German science has developed new indus-

tries for the advantage of all men. In the manufacture of chemicals, for example, and in the application of chemistry to industry, she was the first in the field on a large scale, and, in this department, she retains her primacy, despite the progress of other nations. Thus, in the noblest sense Germany has been a world-power for half a century, and the indications are that she will continue to be so indefinitely.

It has long been customary to think that the destiny of the Far East would depend, in the main, upon the western nations, and especially upon their attitude to China. The war between Japan and Russia has changed all that; at least in the sense that it is now apparent that Japan is a power which must be reckoned with in every movement relating to the Asiatic side of the Pacific Ocean. No nation hereafter is likely to take important action in that quarter of the world without taking into consideration the attitude of Japan. Inasmuch as the commerce of the world is largely interested in the facilities for commerce in the Far East, Japan has become a world-power of the first importance in that quarter of the globe. Her progress in the arts of war has astonished the western world. But she has done much more than astonish the West: she has given it an illustration of how sanitation and preventive care can reduce the losses by disease in war below the losses on the battlefield. This is only one respect in which all the nations of the world must learn from Japan; but this is a matter of such importance that to have taught the world this lesson is to have laid the world under perpetual obligation.

Across a narrow sea from Japan lies China, a territory vast in extent, and populous beyond all other lands. Without the ideals or the habits that make for a strong nationality, the Chinese are yet a people of great industry and with many traits of character that command admiration. In an age like ours, when every nation is seeking to increase its foreign trade, China, if not a world-power in the full sense of the word, is still a country around which movements that greatly affect the world are certain to turn. The adjustment of the formless life of China to the moulds of life of the outside world appears to be one of the inevitable tendencies of the times. Therefore the country likely to be so affected becomes, by virtue of this possibility, a world factor of so great importance as to justify its consideration, in this connection, as a world-power.

From the beginning of its history the United States has been a world-power, in the sense that it has profoundly affected the movements of thought and of action outside of itself. The success of the American Revolution undoubtedly did much to bring to a head the revolution in France, which placed a great gulf between the ancient régime and the new in every country of Europe, and which, in turn, has modernized every European country, unless it be Russia. The refusal of the United States to pay further tribute to the Bey of Tripoli one hundred years ago led the other nations to follow it in putting down that abuse. Its attitude in the war of 1812 put an end to the impressment of sailors upon the ocean, not for itself alone but for all nations. Its influence in favor of the rights of neutrals has led to a great extension of those rights; and, in the matter of the settlement of international disputes by arbitration, it has been easily the leader among the nations. In successful wars with foreign countries, it has set the example of paying for foreign territory conquered by its arms, instead of demanding an indemnity; and in returning the indemnity received from Japan for the Shimonoseki affair, because it thought such a payment essentially unjust, it has set an example of idealism in its relation to other nations of which its people may well be proud. More recently, its attitude to China has been uniformly generous, and in Cuba it has made a neighboring people free at great expense to itself in blood and treasure.

The United States has been a world-power, also, and a world influence of the first magnitude in the sense that it has offered an outlet to the overcrowded countries of Europe for their surplus population. No movement in the history of the world is so striking and significant as the peaceful migration of literally millions of people out of every European country into the United States. In ancient times the migration of various tribes from place to place is recorded; but always such migration was either that of the conqueror, who carried fire and sword wherever he went; or that of the vanquished, who were moved, against their will, from their old homes to the new. And even so, the scale upon which such migration occurred was insignificant compared with the mighty tide that now, for nearly a hundred years, has rolled from the old world to the new. No doubt this phenomenon has been largely due to the bare fact that the United States has been a new country, needing

population that the old world could spare. But this is a very partial explanation of the phenomenon, for the inhabitants of the United States might have given so cold a welcome to other newcomers from abroad as to have kept the stream of immigration always small in volume. In point of fact, however, the United States, by its aggressive policy, has actually changed the old European conception of "once a subject, always a subject," to the modern doctrine and practice that a man is free to choose his citizenship where he will, without losing his property rights where he was born. This affords a new basis for international relationships, a basis that makes strongly for peace and good-will. There is, perhaps, no greater difference in the world's life brought about by the United States than this. The United States has made all comers welcome, barring the Chinese. The significance of this exception will be discussed later. The poor, and even the ignorant, from European shores have been made to feel that America welcomes them to the land of opportunity. The vast development of the resources and power of the United States is one return made by the immigrants to that attitude. It is inevitable that a population so composed, and so related to foreign peoples, should be, at bottom, well disposed to them all. While the United States has pursued consistently its own ideals, and is likely to do so, it may be taken for granted that its primary instinct is one of friendship for all nations.

The appeal of the United States to its citizens, like that of England, is to the innate power and capacity of the individual man. The people of the United States believe in education not less warmly than the people of Germany; but, as a people, they lack the sense of discipline, the quality of thoroughness, and the submissiveness to control which have made the German Empire what it is. As substitutes for these qualities, they have immense enthusiasm, great earnestness, a zeal for knowledge and a readiness to learn which have made the people of the United States one of the most intelligent peoples of the earth. They are not trained in the school as the German is trained; and yet the German workman, on coming to the United States, is so waked up by the atmosphere of which he finds himself a part, that he becomes a more effective workman than in Germany. In the education of the school the German system surpasses that of the United States by its thoroughness and comprehensiveness; but in the education that comes of the life of the body

politic, no country in the world educates its citizens so generally or so effectively as the United States.

The United States, in a word, is a nation vast in power, and still more vast in undeveloped resources, great in capacity, and lofty in its ideals, pursuing steadfastly its own development, at home and abroad, but equally firm in the belief that it prospers best when other nations also are prosperous. In its international relations, it aims to be just, and to seek peace by ensuing it. What is likely to be the influence of such a nation as a world-power, now that events have brought it into closer contact with world movements, outside of itself?

Those who fancy that the United States has been suddenly smitten with imperialism because of its attitude towards the Philippines seem to me wholly mistaken in their view. The United States did not start out to conquer the Philippines, and no nation was ever more surprised than it was when it found itself confronted with the dilemma of what to do with them. The nation that was arranging, at its own cost, to give independence to Cuba, was not, in the same treaty of peace, plotting to deprive the Filipinos of their independence. On the contrary, it was planning, generously, as it thought, to substitute itself for Spain in the Philippine Islands, and to give to the Filipinos the benefit of association with a strong people, all of whose instincts are for freedom, in place of association with an old nation, whose instincts have never run in modern lines. There may have been, in the decision on the part of the United States to keep the Philippine Islands, some influence of that Norman blood, which, from time immemorial, has found attraction in foreign lands, in Normandy, in England, in Sicily, and wherever its warriors went; and, back of it all, beyond all doubt, was the influence of the thought that, in the commercial developments of the coming years, the United States, with her natural and large interests in the Pacific Ocean, was a safer guardian in the Philippines of those interests than any other nation. This, coupled with the belief that the United States could be really helpful to the people of the Philippines, led to the great decision. It should be said, also, that in the Philippines the United States has not hesitated to carry out its ideals as rapidly as they have seemed practicable. With the profound popular belief in education that is characteristic of this country, more progress has been made in five years in establishing a

system of popular education in the Philippine Islands than has ever been made in any tropical country in the same length of time. Rightly or wrongly, the United States has not hesitated to try to solve its problems there, not only on the lines of personal freedom and generous civil rights, but also on the lines of popular education, and of popular participation in government, that are natural to us, but strange enough in the Orient. It may be too soon to say what will be the large result of this great departure from all old methods; but they, at least, in our own country, who complain because more is not done, miss the great significance of what is actually being attempted. Time, and time alone, can determine whether the same tendencies shall go further, or whether they will be checked by the course of events. But this, at least, is certain, that nothing in the character of the American people will check the development upon the lines of self-government which has begun. If this movement fails it will fail because it is not applicable to people of another race and of a different clime; but, happily, the indications are that slowly and surely it is winning its way, and converting some who have heretofore been disbelievers.

By the Monroe Doctrine the United States has preserved both the American continents from European complications for almost a century, except for the brief and unhappy episode of Napoleon III. in Mexico. Its presence in the Philippines is almost certain to make for international peace in the Far East, because it throws actively into the scale as a factor making for peace there, on the basis of justice, the great moral force of the United States. The United States opened Japan to intercourse with the western world by peaceful negotiation. It has stood like a rock, during recent troubles, for the integrity of China; for its neutrality during the present war between Japan and Russia; and for the "open door" in China for the commerce of all nations. Being in the Philippines, the United States is so far a party in interest that its voice commands even greater weight on such subjects than it would have had if our actual interests had been distant the whole width of the Pacific.

Thus far the attention of the United States has been largely given up to internal development. Recent events have compelled it to look beyond its own borders, and to contemplate its relations to the rest of the world from a new point of view. It is characteristic

of this new attitude that it proposes to build the Panama Canal. It desires to open, not only a new passage for itself between its Atlantic and Pacific ports, but also a new highway for the commerce of the world. But it wants to do this itself, without the aid of others, thus avoiding international complications.

International problems in these days are largely industrial and commercial in character. The diplomacy of the days preceding the French Revolution was usually dynastic. The wars and struggles of the nations represented (upon the surface, at all events) little more than the efforts of different families to advance their own interests, which they identified, more or less consciously, with the interests of their people. Since the French Revolution the movement in the western world has been towards the formation of nations on either racial or geographical lines. This process has gone so far as to leave little more to be accomplished; and as one result we find that the nations of the twentieth century are concerning themselves primarily with questions affecting their own industrial well-being. Broadly speaking, most modern nations can produce by their manufactures more than they can consume. The United States and Russia produce, also, by their agriculture more than they can consume. The profitable disposal of this surplus of production, whatever form it takes, has so profound a bearing upon the welfare of the nation producing it that every country feels constrained to concern itself with the development of its foreign trade by every means in its power. This it is which brings the modern nations, not only most closely into contact with each other, but also, most frequently, into collision with each other, more or less seriously. The present war in the Far East is not so much a struggle to determine whether Russia or Japan shall be politically dominant in Manchuria, as it is a war waged for the markets of Manchuria and the regions affected thereby. The war, therefore, concerns deeply, not only the nations actually engaged in it, but in its outcome and settlement it will profoundly affect all the commercial nations of the world. From this point of view, that is to say, from the point of view of international commerce, the attitude of the United States, as to the settlement of the war, is likely to be very far-reaching. The United States stands for the "open door" in the Far East with an emphasis that already has been greatly influential. It is likely to continue to stand for that idea as earnestly and persistently as may be necessary.



In order to appreciate the significance of this question of the "open door" to the United States, one must consider it in its relation to one of the most powerful and persistent of the ideals of the American people. Reference has been made already to the significant fact that the American people have welcomed all newcomers into the United States except the Chinese. From the point of view of all the political theories of the United States this exception is indefensible. It has met, however, in this country with substantially no protest, because of the general recognition on the part of the American people that the admission of the Chinese in large numbers would involve disaster to the American standard of living. This reveals, in another form, the transition already traced from political to economic questions as the dominating questions of the modern world. No ideal is dearer to the Americans as a nation than a high standard of living, not merely for the fortunate few, but especially for the great masses of the people. The policy of protection, which has dominated our tariffs for half a century, could not have been maintained for a decade if the masses of the voters had not believed that it tended to elevate their standard of living. They know that under the policy of free trade at home and protection through customs duties against foreign competition not only are wages higher here than elsewhere, but also the standard of living is higher among American working men than in any of the countries from which they so largely come. There are serious objections that can be urged against our policy of protection. It does lend itself to an increase of corruption in public and commercial life; it does have the effect of placing our manufactures and all our industries more or less on an artificial basis. These are serious and weighty objections, and they would quickly be fatal to it if there were not upon the other side considerations that, in the general judgment, outweigh them. First of all, and perhaps the most important of all, is the one already referred to, that the policy of protection has been accompanied by the creation and maintenance of a standard of living for the great masses of our people that nowhere else prevails. In addition there are two other things to be said for it of far-reaching importance. It has doubtless greatly stimulated emigration to this country, and, in so doing, it has relieved the pressure of population upon European countries, as it could not otherwise have been relieved. Any one who is familiar with economic conditions and

the conditions of life for the masses of men upon the continent of Europe must shudder when he thinks what these would have been if the outlet to the United States had not existed, and had not been made as attractive as it has been. The maintenance of very high wages in this country, furthermore, has so stimulated invention as to lead Americans not only to use machinery more than any other people, but even to seek economy in the operation of machinery itself, with the result that the United States, in many instances, has shown itself able to produce the cheapest goods, although paying the highest wages and working the shortest hours of any people in the world. This fortunate demonstration that machinery, when carried to its highest perfection, where labor is intelligent, both relieves men from excessive hours of labor and increases their pay, is a demonstration of incalculable value to mankind. This demonstration, it is not too much to say, is due to that necessity which is the mother of invention, which has been fostered, certainly, if not created, by the protective system of the United States, and which has been maintained in the interest of a high standard of living for the masses of the people. It is easy to see that a nation that has been willing, in the general interest, to pay more for every manufactured thing that it consumes until time secures a domestic product as cheap as the imported, was not likely to permit its standard of living to be undermined by the admission in large numbers of a people like the Chinese, whose standard of life is so far below that of the American laborer as to threaten the latter with extermination wherever Chinese competition became serious. The standard of life of many European immigrants, in the last few years, is far enough below that prevailing in the United States; but, low as it is, the difference is not so great as to forbid the hope that in a few years the standards of the newcomers will be lifted up to the level of those already here. With the Chinese, however, the standard of living is so much lower still as to make the attempt seem hopeless; while the strangeness of their tongue, and the fact that they do not, or indeed cannot, readily become integral parts of our civilization, have given justification to the policy of exclusion actually pursued.

If this study of current problems is sound, the influence of the United States as a world-power is likely to be felt increasingly in the interest of a universal commerce; not a commerce independent of tariff restrictions, but a commerce independent of political bar-

riers. In time it is not unlikely to be felt in favor of the removal of tariff restrictions; but that time must await the coming in this country of the general belief that the standard of living, here and elsewhere, can be advanced by the reduction of tariffs. While the United States pursues for itself the policy of high protection, it naturally cannot object to a similar policy, when pursued by other nations; and if such a policy should become world-wide, and if the surplus production of the United States should increase in volume so greatly that it cannot be disposed of advantageously under the régime of high tariffs, the United States will then be confronted with a new problem. Up to this time, by its effect upon emigration, it may fairly be said that the protective policy pursued by the United States has helped to elevate the standard of life in Europe as well as in the United States. If that should cease to be the fact our policy, doubtless, would have to be changed to meet the changed conditions. In the meanwhile it may easily be that for a long time to come the influence of the United States, under its present commercial policy, upon the standard of living the world over, will be helpful. No policy of any kind is without its disadvantages, and some of the penalties which the United States pays for maintaining its high standard of living are very evident. Its shipping engaged in foreign trade has been reduced to a minimum, for the reason that, under the protective policy, ships can neither be built nor operated as cheaply by the United States as by other nations. This fact encourages the United States to maintain its navigation laws, and even to extend them to its new territories; action that, upon the face of it, is not considerate of foreign nations. On the other hand, a departure from this policy that would bring the United States into active competition upon the ocean with all nations, because wages here were as low and the cost of things as cheap as they are elsewhere, would make the United States in the markets of the world a much more formidable competitor than it is now. The competition of shipping maintained by subsidies is not likely to be felt on a scale large enough to cut a very serious figure.

If, then, it be true that the future belongs to the United States, it is fortunate for mankind that the United States is not, in essence, a warlike nation. Capable of fighting, and fighting hard, if need be, with wealth and mechanical capacity beyond all other nations, and with greater reserve power than any other people, both its political

system and its essential spirit are friendly to peace. Its great army of the Civil War on both sides melted into the industry of the country as the snow melts into the rivers under the April sun. It seeks to arm its people for the contests of commerce and industry, not for the battlefield. Apart from pensions, no nation bears so light a burden of taxation, in comparison with its resources, for military and naval purposes. The United States in the future, as in the past, undoubtedly would fight, and fight with all its immense power, in defense of its rights or to protect itself from attack. It would certainly fight to preserve the American continent from new or enlarged European control. It might even fight, under provocation, to prevent neutral markets from being closed arbitrarily in its face. It is scarcely conceivable that it would ever fight simply to enlarge its markets. Because its international interests are so largely commercial, its influences everywhere must be for peace; for commerce is a lover of peace, and not of war.

But while the formal influence of the United States, in its international relationships, is most immediately felt in these days in relation to commerce, it is still true that the United States has been, and is, and may hope to remain, an immense force among the nations of the earth, making for individual freedom, for larger civil rights, and for freedom of opportunity. No one begins to understand America who does not appreciate its earnestness and its idealism. The old Puritan doctrine may have been modified, but the Puritan spirit still remains. In a thousand ways it affects and permeates the great mass of newcomers almost unawares. It is a spirit to which men are of more moment than things; before which there shines always the ideal of a nation built upon righteousness; of a nation whose aim in the world it is to stand for justice and liberty, at home and abroad. It is a spirit by which, in the last statement, every policy of the country must be tried; to which, sooner or later, all of its policies must respond. Such a country as a world-power may make mistakes, but its influence at large cannot but be elevating; and the more so because its policies represent the free action of the largest body of free men on the face of the globe. That same free spirit that has changed the conception of citizenship till a man is free to choose the country of his allegiance; that has set the sailor free upon the high seas, so that he can be no longer taken by force to fight under a flag that he loves not; that has redeemed Cuba from being a second

Crete, and has given to it its own independent life among the nations ; that same sense of justice which has led it to arbitrate international disputes more freely than any other nation ; that has led it to pay for territory conquered in war, instead of holding it as the spoils of victory ; that has led it to return to Japan money that it felt was not justly due ; that has led it to buy the friars' lands in the Philippines in order to settle justly an agrarian dispute ; these are the forces, this spirit of justice and this spirit of freedom, certain to control the United States in all its international relationships, so that men may fairly expect of it, in its rôle as a world-power, that its vast power and resources will make steadily, one may even hope uniformly, for international happiness and international peace.



## II. The Position of the United States on the American Continent





# Attitude of the United States Toward Other American Powers

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By Honorable Francis B. Loomis, Assistant Secretary of State,  
Washington, D. C.



## ATTITUDE OF THE UNITED STATES TOWARD OTHER AMERICAN POWERS

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BY HON. FRANCIS B. LOOMIS,  
Assistant Secretary of State.

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The American Academy of Political and Social Science has practically completed a decade and a half of suggestive and useful work. It has passed from a tentative and a formative state to one of recognized influence and efficiency. The aims of this body are educational and, in that sense, the value of its work is scarcely to be overestimated. It has directed public sentiment, and has aroused interest in and brought about brilliant discussion of many of the vital political and social problems which our complex civilization sets before us.

It is not to be supposed that a definite solution will be immediately found for the more difficult problems which confront us, but it may be safely said that by means of discussion, analysis, exchange of views and information, we may find the path which leads to ultimate solution.

The American Academy of Political and Social Science has vindicated its usefulness. A glance at its published *ANNALS* is sufficient proof of this. It has contributed a very large amount of informing and stimulating literature to the country, and has enlisted the active participation of a good many great men, and a great many good men.

The question which you propose to consider this afternoon is one of deep and abiding interest. It has been important since the beginning of the nation, and it grows in importance as the nation expands and enters into closer relations with the rest of the world.

It is not my purpose to discuss the "Position of the United States on the American Continent." What I say is merely of an introductory character. The real discussion will later be carried on by a number of highly competent and forceful speakers. But no one

who considers this question can be insensible to the vast responsibilities which rest upon the United States. Our responsibility, as I have said, has increased with our national growth. This country has always stood before the world for certain things. In the course of its evolution from a number of scattered settlements on the eastern seaboard to its present position of being a considerable factor in world politics, our people have cherished—deeply imbedded in the minds of all classes—the uplifting and inspiring belief that we were in advance of other nations, and were, in effect, setting them an example of free government and noble living. So there is imposed upon us the trust and responsibility of our aspirations. Whatever measure of success we achieve in the way of exercising substantial and lasting influence of a distinctly wholesome nature in respect to other peoples in this hemisphere will be determined by the degree of loyalty and faithfulness which we maintain to the pure and lofty ideals which inspired the founders of this republic.

We must live a sound national life if we expect to exercise, in the family of nations, a real and rational influence. The earnest, self-sacrificing spirit of the early fathers, which moved them to subdue the wilderness for the sake of freedom of conscience and judgment, and to conquer a new country in the face of terrifying obstacles and dangers, may take new directions, in view of our altered conditions, but it must not flicker and expire by reason of the vast material wealth which has come to this country.

In short, I think the lessons of history teach us that a nation cannot be rich in the good things of this world and poor spiritually without at the same time sowing the seeds of decay and dissolution.

The position of the United States on the American continent is in the process of determination. The question presents itself to us from time to time in direct and practical ways that cannot be avoided. The sum of the efforts of the government and of the people of the United States to meet these questions as they become vital and pressing is the history of our position on this continent. This history we are making from year to year, sometimes slowly and sometimes with great rapidity and definiteness. That the unselfish purpose of this government, and the soundness and purity of its intention to refrain from land-grabbing, are beginning to have abundant understanding and appreciation, is evidenced in very many and satisfactory ways. I do not think there are longer any fair, open-minded, thoroughly in-

telligent people south of us, who are honest intellectually, that believe that this country wishes anything else than the peace and well-being of all of its southern neighbors. I find gratifying indications of this growing understanding of the motives of the United States in its relations with Latin America in a recent article in one of the journals of Havana, the *Nuevo Paris*.

"The Republic of Santo Domingo," it declares, "has entered upon a new period of its history. Under the protection of the United States, there can be no fear of further bloody struggles for power. By coming to an agreement with Washington, President Morales has done his native land a great service, which will call for the gratitude of the present and of future generations of Dominicans.

"The Dominicans are energetic and brave, but their energy and bravery have been hopelessly wasted. From now on these two qualities will serve to raise the intellectual and moral standard and lay a firm foundation for the prosperity of Santo Domingo. The country will, while keeping its independence, pay its debts, live in peace with the world, and devote all its energy to the development of the prodigious wealth of its unexploited soil. The United States will guarantee the Dominicans protection against themselves and against foreign cupidity. Now they may indeed boast that they are on the road to civilized existence."

So it will be found, I fancy, the degree of our influence, and the importance and power, if you please, of our position will be determined from time to time by the manner in which we deal with these questions which will come before us in an insistent, practical way.

If our relations with the other nations of this hemisphere are conducted in a spirit of justice and generosity, with a kindly regard for the interests of humanity; if it be felt and understood that we are not wanton aggressors; that we have no irresistible craving for territorial aggrandizement; that we ask only for the just treatment of our citizens and for our share of the trade of the world, we cannot fail to become a factor in the international problem on this hemisphere, which will continually make for universal prosperity and long years of productive and happy peace.

Neither in the Orient nor in the Caribbean are we seeking to acquire fresh territory or unfair commercial advantages. There are certain salient and self-assertive facts, however, to the existence of

which we cannot close our eyes. To many of us who have had to give close practical consideration to these matters, and to deal with specific cases, it seems plain that no picture of our future is complete which does not contemplate and comprehend the United States as the dominant power in the Caribbean Sea.

This is a personal, individual reflection. I do not, therefore, propose to enlarge upon it or to indulge in theorizing or speculation concerning it.

This government will always be more or less concerned, as it now is, with the problem of the Caribbean and certain parts of its littoral, and I may say that whatever we have accomplished there in the way of preserving order, stability and the establishment of sound financial conditions, will not be lost.

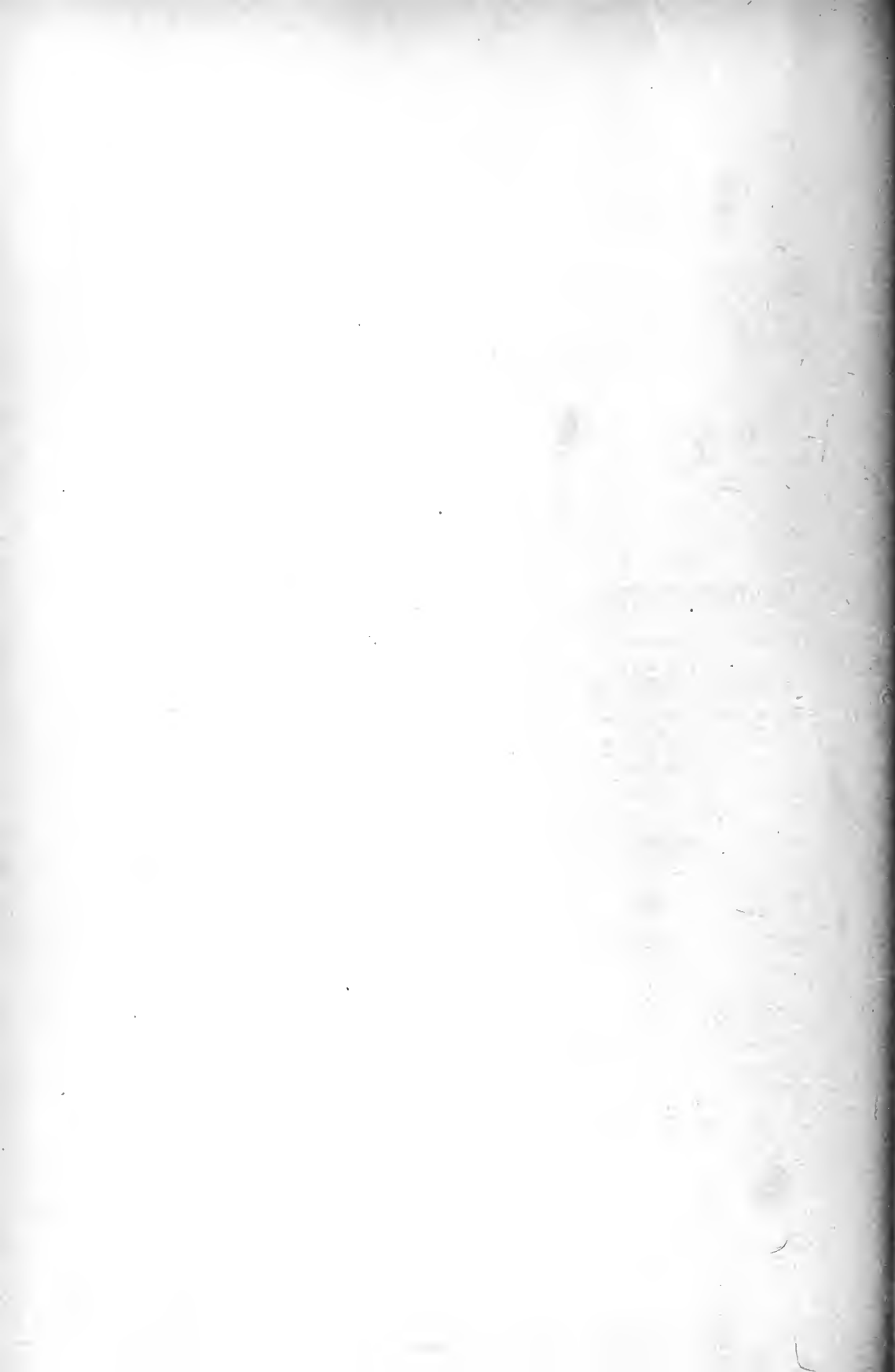
The effect and the influence of good example in the maintenance of order and sound finances will endure and perhaps come to more substantial fruition than in the past. It will reinforce what we did for humanity in the Island of Cuba, and illumine our efforts to uplift alien races in Porto Rico and the Philippines.

In considering the position of the United States on the American continent you will ultimately have to reckon with that new and great factor, the interoceanic canal, and with the fact that circumstances have forced us to depart from our position of political and commercial isolation. The vastly augmented power of production on the part of the American people has rendered insufficient the home market. We are being driven, by necessity, to find new markets, and these economic problems must be given due, if not commanding place, in considering in a rounded, broad and comprehensive way the relations of the United States to the rest of this hemisphere and to the rest of the world.

# **Responsibilities of International Leadership**

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**By Professor Emory R. Johnson, University of Pennsylvania,  
Philadelphia**





## RESPONSIBILITIES OF INTERNATIONAL LEADERSHIP

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BY PROFESSOR EMORY R. JOHNSON,  
University of Pennsylvania.

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The position of the United States on the American continent is one of leadership, with all the responsibilities and perplexing duties involved in that position. The question of who should lead in the affairs of the American continents was practically settled in 1763, when the power of France in North America was broken by the British colonies, aided by the home government in Great Britain. The American revolution did not decide whether the American colonies or Great Britain should lead in American affairs, but rather whether the colonies should bear the burden of leadership alone or with the aid of an European country. We chose in favor of undivided responsibility, but we were comparatively slow in realizing the scope of the obligation we assumed. It took the trouble with France at the close of the eighteenth century, the war of 1812, the assertion of the Monroe Doctrine against the designs of the Holy Alliance, the maintenance of the rights of Mexico against France, the Venezuelan boundary dispute, the Spanish War and many other events in our international relations to make us fully conscious of our leadership and our responsibilities as the great power on the American continent.

This leadership is threefold—economic, political and educational; and it would be difficult to decide which of these three phases of our responsibilities is the most important.

*Our economic leadership is the most recent.* A few years since we were a debtor nation, largely dependent upon the aid of outsiders for the development of our own country. Our foreign trade consisted chiefly of the exportation of food and raw materials in exchange for manufactures. This situation is changing. We have surplus capital; and although we are continuing to export great quantities of raw cotton, provisions and forest products, we are

buying fewer manufactures and more materials, and are exporting increasing values of our own manufactures. Our capital is developing Mexico and Hawaii, and is being invested largely in the West Indies, the countries about the Caribbean, in Canada, and in the Philippines. Our manufacturers and exporters are steadily entering the foreign markets. There are but few sections north of the American Isthmus—and they are of but limited area—where the economic interests of the people of the United States are not paramount to those of any European country.

In South America, Europe is stronger than the United States commercially; but that is certain to be changed throughout the western third of the continent by the Panama Canal. With or without the canal we shall in time control the major share of the trade of the Caribbean section of South America, but the canal will exert indirect influences that will hasten our economic progress even along the north shore of South America.

Our ultimate economic leadership on the American continents is assured. How is this to affect our economic policy? It can hardly fail to compel us to modify our tariff policy. We shall be compelled to shape our legislation concerning commerce less exclusively with reference solely to domestic conditions, and more with regard to our economic relations with the other countries of North and South America. We may, and probably shall, continue our policy of protection; but by reciprocity or some other more promising measure yet to be discovered we shall work toward a policy of protecting both our home manufactures and our American international trade. We shall hear less of the question of protection or free trade, and more of the question of protection and trade.

This broadening of our commercial policy will be forced upon us not only by our own economic interest, but as a result of our responsibilities as the leader in the affairs of the American continents. We have already recognized this duty in our relations with Cuba. We had to struggle not a little with our national selfishness, but after considering our duties carefully we recognized the fact that our responsibility to Cuba involved such a change in our tariff as would enable that island to prosper. Economic prosperity was the prerequisite of the political progress for which we had become sponsor. I believe that what we did in shaping our relations with Cuba is an earnest of what we are destined to do from time to time in our

relations with many, if not most, countries of Latin America. We must couple economic and political leadership.

*The political leadership* of the United States in North and South America is an obligation which the United States cannot avoid, and the majority of the people of our country have no desire to avoid this obligation. This is what we mean by upholding the Monroe Doctrine, in which we believe so fully. But how little did we realize even two or three decades since what the maintenance of the Monroe Doctrine implies! We knew in a general way that our Monroe Doctrine meant that we should uphold republican institutions against European interference in the countries south of us. This would, indeed, not be a difficult problem for us if the countries of Latin America possessed stable and efficient governments by which the property and personal rights of citizens and foreign residents were safeguarded by liberal laws impartially executed. But this result has not been accomplished by many of the republics of Latin America. We must acknowledge that our hopes regarding the success of republican institutions in Spanish America were raised too high.

Five years ago this month I returned from a three months' trip to Central America and the Isthmus. On that trip I saw something of the government of Nicaragua, where the President of the country had two years before succeeded himself in office contrary to the provisions of the constitution. He is now serving a third term without retirement. In Costa Rica the genial President of the country had succeeded himself in office, the Congress having suspended the clause of the constitution prohibiting a man from being President two terms in succession. At the end of the second term this President was reluctantly persuaded to permit some one else to be elected; but even then there was rioting and uncertainty as to the issue during the day upon which the new President was inaugurated. In Colombia five years ago a prolonged and bloody revolution was in progress. The Isthmus of Panama was then quiet enough. It has since been somewhat active politically, with results mutually advantageous to the people of Panama and to the United States.

I have referred to this trip to Nicaragua, Costa Rica, and Panama, not because it was exceptional, but because it gave me, as I believe it would have given any American visiting Central America and northern South America for the first time, a realization of

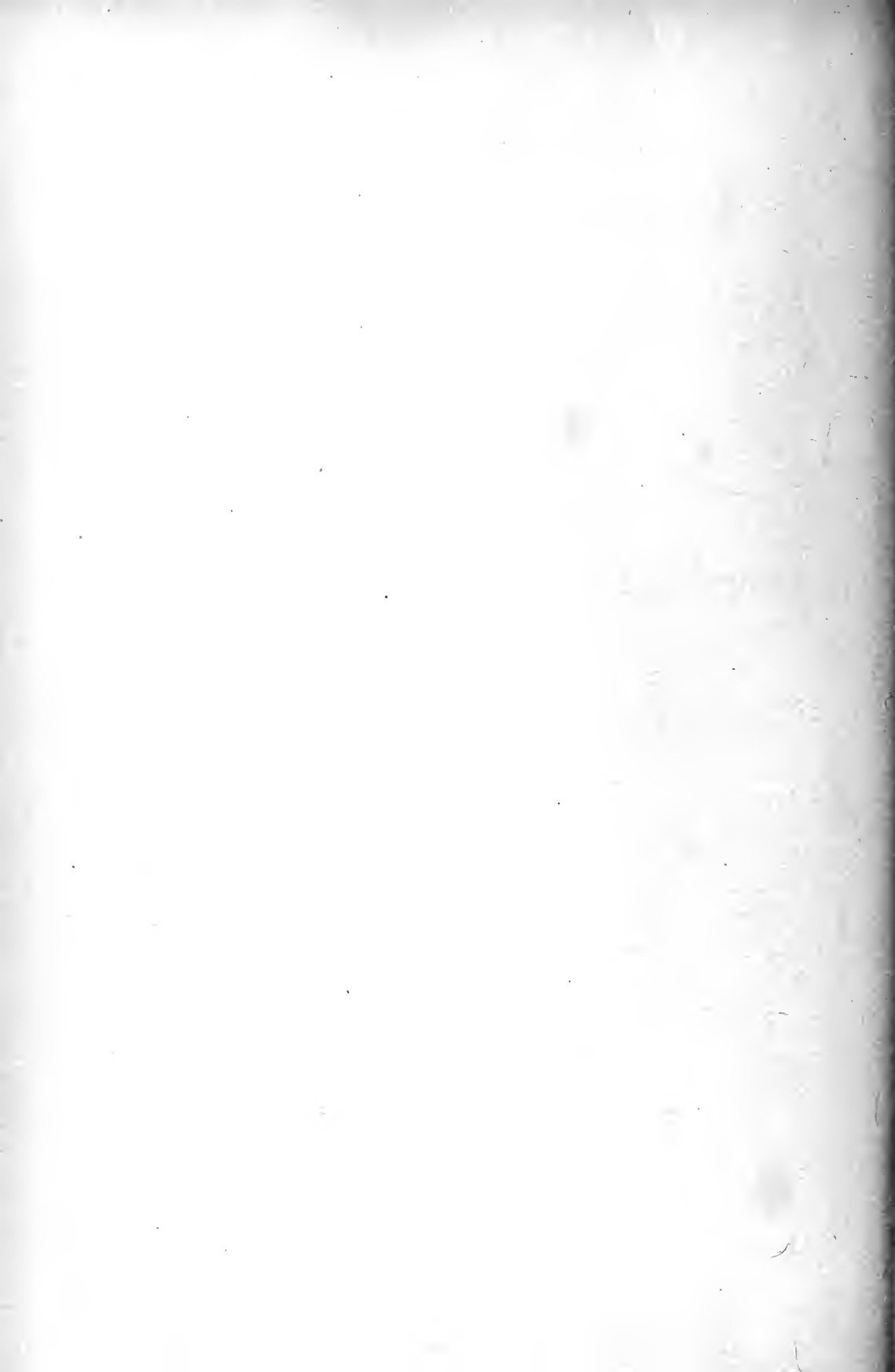
the instability and uncertainty of republican institutions in those countries.

Republican institutions are not working as they ought to in many countries of Latin America, and we cannot avoid responsibility for the correction of at least some of the wrongdoings of those countries. When we asserted the Monroe Doctrine we thought all republics would always do right; now we find they may do wrong, and when they do a wrong to an European country or a citizen of an European country we are practically compelled to require justice to be done. Our Monroe Doctrine requires us to compel European countries to refrain from interfering in the administration of the republics of Latin America, but the time has come when we must either assume large responsibilities as regards Latin America or allow Europe greater freedom in dealing with her international relations with Central and South America. There is so much European capital invested in those countries and there are so many Europeans engaged in business there that Europe will not tolerate political conditions that do not afford protection to personal and property rights. Unless we permit Europe to protect her interests in South America, she will hold us responsible for that protection. Indeed, this position has already been taken by European countries, and we are coming to realize, as never before, the responsibilities we assumed when we made the Monroe Doctrine the basis of our international position on the American continents.

*Our leadership in the affairs of Latin America is educational as well as economic and political.* Fifty years ago the people of Latin America were influenced mainly by the culture and educational ideals of Spain and France. This has changed, and to-day the people of Mexico and Central America, and to an increasing extent the people of the countries of South America, are coming under the influence of American culture. On the trip which I took to Central America and the Isthmus five years ago I was met in nearly every city visited by men who had studied in the United States, usually in New York or in Philadelphia. The ambitious young men of Latin America are coming to this country in increasing numbers to pursue courses in medicine, surgery, in political science and diplomacy, and in the higher branches of commerce and finance. This is the most hopeful phase of our relations with Latin America. Having assumed responsibility for the economic and political progress of the countries

to the south of us, we may well welcome these evidences of our growing educational and cultural influences upon the people of Latin America. It is absolutely essential that we should understand their civilization. The presence in our midst of a large body of students from Latin America will result not only in their obtaining a better understanding of our civilization, but will also assist us to a knowledge of Latin American institutions. We in this country are proverbially provincial and are prone to think that institutions that work well in this country will work well in all places, and under all conditions. There could be no greater fallacy. Successful institutions are those which harmonize with the spirit and with the ideals of the people. Without doubt the political institutions of the United States can be so adapted as to harmonize with the racial and social conditions obtaining in the countries of Latin America; but it is equally certain that our institutions cannot be successfully transplanted. The efforts to transplant our constitution to the soil of Latin America have resulted in many lamentable failures. Political chaos and the despotism of the dictator have been possible in countries whose constitutions provided for liberty in an ideal manner.

Every effort should be made by such organizations as the American Academy of Political and Social Science, by the University of Pennsylvania and other great educational institutions of the country, by the Carnegie Institution, and by the wealthy benefactors of education to provide for the systematic study by American scholars of the economic and political conditions and the legal institutions prevailing in Latin America. If we are to exercise our leadership wisely and intelligently, American scholars must tell us what to do. It is, moreover, hardly less important for us to encourage in every way possible the presence in our educational institutions of an increasing number of young men from all parts of Latin America. In this way and by these means alone can we look forward confidently to a successful and beneficent leadership of the United States in the affairs of the American continents.



# Europe and the United States in the West Indies

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By Talcott Williams, LL. D., Philadelphia





## EUROPE AND THE UNITED STATES IN THE WEST INDIES

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BY TALCOTT WILLIAMS, LL. D.,  
Philadelphia.

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The first steps taken by the United States with reference to the determination and collection of the debts of the Dominican Republic have had two opposite effects in the financial circles of Europe. An entire round of bonds, issued at one time or another by governments fronting on the Caribbean Sea and the Gulf of Mexico has abruptly advanced, doubling, trebling and quadrupling in quoted value. At the same time the Belgian bondholders, representing half the face value of the obligations alleged to constitute a lawful claim against the treasury of Santo Domingo, abruptly protest, it is reported, against a proposed arrangement which looks to scrutinizing the validity and equities of the constituent portions of the Dominican debt, meanwhile placing all the revenue available for the payment of interest and amortization in escrow until the work of determining the just debt of the republic, as ascertained by a legal inquiry, is completed.

These opposing views illustrate the opposing principles upon which European powers and the United States take up the problems presented by the population of some 30,000,000, occupying 2,000,000 square miles of territory, under 18 flags, 14 independent and 4 colonial, encircling the waters of the Gulf and the Caribbean. This population, whose total is larger than most appreciate, equalling to-day the population of the United States in 1860, whose joint territory is twice as large as that country east of the Mississippi, presents essentially one homogeneous problem. Some phases of this problem appear in our own Gulf territory, two of which—Louisiana and Florida—have tracts with a territory and population which, if they were detached and anchored as an island in the gulf, would be as other lands and islands in our tropical Mediterranean. But this

share of the Gulf coast is removed from current consideration by its national relations. The remainder, nearly one-half the population of Spanish America, is all tropical, all either Indian, negro or hybrid, with not over five per cent. of its population of a pure European origin. Its integers range from Mexico, to-day one of the three most stable of Spanish-American realms, to Santo Domingo, so far as its revenues are concerned in the hands of a receiver, *pendente litem*. Mexico and Cuba, farthest north, are free from internal instability and enjoy international credit. Even they have their problems. The rest, whether colonies or countries, are steadily gravitating towards bankruptcy. Porto Rico itself could not support the institutions and education of a society civilized or under the process of civilization without disguised aid from the United States. With the two exceptions noted and one other, every independent country in this area has either repudiated its debt or finds it in whole or in part under dispute. Not one but is in a conditon to invite interference. Not one of the fourteen European colonial possessions in this area has a balance sheet which will bear analysis. Even Jamaica, a century ago the wealthiest of all British possessions, for sixty years furnishing the wealthiest British subject, faces yearly deficits or prevents them by a pitiless taxation. It is true of this entire area and all this population that international tutelage in some shape is inevitable. We deceive ourselves if we do not see that the economic bankruptcy of the tropics, which, in a belt running around the world, furnishes examples of decreasing prosperity as visible in Ceylon and Java as in Jamaica and Hayti, in the Congo and Orinoco alike, have brought this particular physiographic basin, lying south of us, about the Gulf and the Caribbean, displaying singularly uniform conditions, to a pass where its supervision by some stronger power is inevitable for its own security and development.

Europe would interfere if the United States did not. Fortunately, as if to furnish an experimental trial and informal plea for the application of our methods and the extension of our theories of administration, the European colonial system has been tried in this area and failed. In Cuba, the Spanish system met economic failure before it faced political collapse. The reconcentrado system had been tried on the agriculture and industries of Cuba before it was tried on its population. In both it was a frank confession of administrative suicide. Jamaica is in its way as complete a failure.

Growing poorer year by year, its sugar and coffee industries disappearing, its white population diminishing and its taxation increasing without meeting its expenditure, a long series of despairing official reports furnish their own best proof that even British colonial administration above praise in its order, honesty and efficiency, cannot bring prosperity and internal development to an island relatively and absolutely richer and more prosperous a century ago than to-day.

In succession, following the plan of events rather than any systematic national policy, the United States has set itself to the task of the administrative and economic rehabilitation of this region. Our railroad capital and railroad management have played a part in Mexico whose full importance will only become clear when President Diaz closes his long career. The extension of our own railroad system over Mexico has been a powerful factor in maintaining Mexican stability. Should that factor be disturbed in the future, American capital and American interests in Mexico are such as to render it certain that they will constitute an influence as important in restoring stability by the United States through whatever steps the situation may render wise, necessary or inevitable. Fortunately there has been no moment for twenty-five years, and there promises to be none in the future, when the economic development of Mexico will not preserve its political equipoise. Mexico has worked out its own salvation thus far aided by American capital, which has never in a quarter of a century had reason to appeal to its own government even for remonstrance. As much cannot be said for any of the dependent railroad systems planted by external capital in the Iberian or the Balkan peninsula. Mexico, by its internal condition, for years invited interference. It was attempted by European countries, culminating in the ill-starred and disastrous imperial experiment launched by Napoleon III and ended by the United States. Our rigorous abstinence from interference since contrasted with European policy, abortive though it proved, is the best possible proof that one prime contrast between European and American policy in the broad area once mapped as "Los Indos" is that the United States will never interfere or act while there is a hope of local self-rule and internal amelioration.

Where this hope disappears, as unconsciously as we have abstained in Mexico, we act. Already, in a decade at whose opening no man dreamed of its fruits, in the ten years since insurrection

broke out in Cuba, we have set in order Cuba, annexed Porto Rico, begun our work on the mainland by organizing the "Republic of Panama" and placed Santo Domingo substantially in the hands of a receiver. Already these steps are seen to follow a logical order. The two islands east and west of Hayti have already received our attention. The control of Panama means, when the canal is dug, dominance over the entire basin. The economic annexation of Jamaica is in rapid progress by the extension of fruit industries on the island through our demand and our capital and by the demand for Jamaican labor on the canal. This demand under the French company has begun the work of transforming Jamaica into an island of small landholders, and by the time the canal is dug this transformation will be complete, the industry which we are stimulating on the island by our consumption of bananas being (unlike sugar and coffee fostered by English policy and English taxes) directly favorable to the small landholder. Many signs show that he is increasing in Cuba and Porto Rico. Where Spanish and English taxation aids the large landholder, our systems of taxation aid the small as fast and as far as they are introduced. The Jamaica negro goes to Panama to save the money to buy a small holding on his return. It is safe to predict that Cubans and Porto Ricans will show a like land appetite. The small landholder never appeared on any great and growing scale in Jamaica until the Panama canal began to be dug. By the time we have spent \$175,000,000 on the canal, most of it for labor, we shall have rendered possible the purchase of small plots of tropical land on an enormous scale in the Greater Antilles. Exactly as our taxation, where it is introduced, as in Porto Rico, is inimical to the large plantation—a change inevitable in Cuba and in progress in our own Southern and Gulf States (numerically half the landholders in South Carolina are blacks), so our economic advent in large and unprecedented expenditures on the canal is about to give the great laboring population of this tropical area an opportunity it has never had under plantation conditions to buy land. The European colonial systems, institutions and taxes, England's as well as Spain's, work for the plantation, and are drawn, enacted, conducted and collected by those in sympathy with the plantation. Unconsciously, for I am dealing not with statute and treaty, but with deeper forces, which regulate statute and treaty, our appearance in this great maritime basin (bankrupt

under European policies or their inheritance in tax systems—such as they are—of Spanish-American communities) is about to supplant the long decay for a century of the plantation by the manifold multiplication of the small landholder—already in full progress, as I have said, in Jamaica.

In the political framework we are creating at our entrance on this great task of raising to an efficient industrial civilization a tropical territory two-thirds as large as our own area between the oceans and a population a third of ours, we are as unconsciously following the germs of our institutions. With a political initiative and a political prudence and prescience as worthy in its way and day as that which organized our federal constitution, we are extending its principles and applying them to new needs. The concentric circles of our constitutional system steadily grow and extend. We began a confederation of equal sovereignties. Before we became an indissoluble union of indestructible states we had added to the states within our union, territories without it. These began as communities temporarily waiting for statehood. The Louisiana purchase added territories to wait nearly a century for sovereignty, and part of that acquisition, as early claimed, has passed the centennial of that event without admission as a state. A half century finds part of our Mexican purchase lacking all the requisites for a state, opening a third category of contiguous territory liable to be retained as a territory over more than one generation. Our insular possessions opened a fourth category of territory non-contiguous which no one now living expects to see admitted to statehood and which probably never will be so admitted. With Cuba a fifth category of territory appeared, sovereign—a state in our federal system is that—but also independent and left free, subject to preserving, under the Platt amendment, a certain standard of internal order, civil sanitation and public credit. Between this and an island like Porto Rico appears Santo Domingo, its revenues controlled and paid into court pending the satisfaction of creditors; but its internal affairs left free as long as they remain peaceful and stable, with changes in government and rule proceeding only in accordance to law and not by violence.

It is impossible to avoid seeing here, visible to the apprehending political sense and felt by the historic instinct, a general system and network of public law, written and unwritten, following in one continuous logical course. The states with full national powers, the

territories waiting admission, territories unlikely of this, islands excluded even from this prospect within our current and immediate political horizon, other islands like Santo Domingo and Cuba, each in its need, degree and capacity left free or restrained in certain particulars, all revolving in an American system wider even than our national union, an American system whose final bonds and bounds are the two continents and the hemispheres covered by the Monroe Doctrine—who can see this and not perceive here the growth of one continuous, coherent, logical political system in which, as in our Union, the old problem of a central rule strong enough for national needs and a local rule preserving all that is needed in each instance for local initiative and development, is being worked out as are all vital political systems, not by enactment, but by growth.

If any man challenge the use of "law" with reference to a public policy like the Monroe Doctrine, one can but answer that this legislation for a hemisphere expresses the overt will of 80,000,000 out of 160,000,000 of its population and the assent of all the rest. Of the white and civilized population, 70,000,000 out of 90,000,000 have asserted and defended it. Few of the world's laws, written or unwritten, have behind them an enactment more august or, one may add, are backed by a more puissant physical force.

Viewed in this broad perspective and this wide aspect, our federal union, its states, territories and insular possessions, islands under special relations and the entire area from which European colonization and ambition are excluded, become part of one great growth and development, as indivisible as the hemisphere, in which, as in our Union, no authority and no sovereignty is absorbed by the central power whose possession is not necessary to the peaceful development, the unchallenged security and the freedom under law of each separate and individual part.

If from the area dedicated to this great experiment not only in self-government, but to training in the capacity for future self-government, we exclude by a national instinct now but a little over a decade removed from its centenary, all perturbing European influences, it is because these influences are based upon a different view of centralized sovereignty. Most of all is this true in the island-rimmed seas and rimming coasts we are considering. Even England in Jamaica, ready as she is in granting colonial self-government, has for a century reduced the powers of the local legisla-

ture of the island. Where in Porto Rico, a closely similar island, we have studied how much we could grant of local control, English policy in the twoscore years since Jamaican charter rights were surrendered has sought to see how much could be withheld. Where we kept our pledge and withdrew from Cuba, England, wisely or unwisely, disregarded its pledges and remained in Egypt. No European administrator would have felt safe in leaving Havana. No American administrator felt safe in remaining there. When Spain forty years ago attacked the problem of Santo Domingo it was by an armed occupation which sought sovereignty. With far greater power at our command we avoid an armed occupation, leave local sovereignty untouched and limit our proposed interference to the one point whose stability and protection, experience shows is necessary to the removal of temptations to a breach of internal order and the consequent subversion of public credit, with its grave invitation to international interference on behalf of repudiated obligations. The one view in which debts present themselves to European public opinion is as offering a reason for their collection. The one view, the same obligations present themselves to American public opinion is as offering a reason for ascertaining their justice.

Our national experience, for over a century of sovereign states schooled in submission and obedience to law, has trained us to regard law as superior even to the acts and policy of nations. We see no reason in Santo Domingo or anywhere else why a claim should be urged at the cannon's mouth unless it can first be justly argued in a court of law or bear a legal investigation. If dubious Spanish-American bonds rise on European exchanges, it is because our position is misunderstood by those who have seen Tunis and Egypt saddled with bonds whose face never stood for any valid payment into the public treasury for public purposes. They expect the same of us in the region under consideration in this meeting and in the arena of events. If it is true Belgian bondholders, as reported, object to our method, it is because they are aware of the grave risks raised for them, if inquiry begins and public equities are considered in public debts.

Doubtless this view, which we are introducing in Santo Domingo, in sharp contrast with the steps taken forty years ago to collect Mexican debts and more recently Venezuelan, runs counter to the European view that each sovereign state must be the judge of

the means, methods and measure with which it enforces the obligations and claims of its subjects against another state, particularly if the state is weaker. We have learned through a century of constitutional law that "the glories of our blood and State are shadows, not substantial things," unless they rest on the assured foundation of law. It is a narrow view to look upon the work of John Marshall and our supreme court as simply expounding and establishing the principles of our federal constitution and setting in their due relations federal and state powers. Our great judge was the first to accustom man to the conception that sovereignty itself is the creation of law. When he began his work, ultimate sovereignty, whether it was the popular assembly of Poland, the king of France or Parliament in England, was looked upon in the eighteenth century as superior and supreme over law. In a series of great decisions Marshall recalled men to the fundamental conception that sovereignty itself obeyed law, and when to this was added the still greater conception that international law was binding upon the action of the sovereign in international affairs, a doctrine first laid down by our supreme court, another step was taken in the assertion of liberty through law.

This principle was early applied, first unconsciously and then consciously in the Monroe Doctrine. There is no right and power in which sovereignty had been before more free than in the acquisition of territory. None in which sovereignty had been more jealously guarded than in its cession. When, under the Monroe Doctrine, the American continent was closed to the colonial adventures of Europe, a law was enunciated which controlled the appetite of the strong and the temptations of the weak. Step by step these restrictions were widened. They began with the application to colonial schemes. The work passed on to a veto upon the attempt in Mexico to establish a government aided by a foreign power, though in no sense itself a colony. A generation later in the Venezuela arbitration it was settled that no boundary could be adjusted between an American power and a European colony without resorting to this wider law which was asserted to control the negotiations of the most powerful maritime power in the world. In the same broad region where the voice of law has spoken on these issues there is unrolling before us the application of law to the entire congeries of claims resting on alleged bonds, recklessly repudiated on one side and as



ruthlessly asserted on the other as demanding and deserving the application of force for their face payment. Instead the United States proposes, following the instincts of a past which submits all to law, that these claims also shall be tried by the rules and equity of law and that neither the debtor shall pay nor the creditor assert claims not capable of a legal adjudication before a competent tribunal. Once establish this and the lack of capital which is halting the growth of all the rich tropical area with the unrivaled water communication of our Mediterranean, gulf and sea and their numerous harbors, disappears, without establishing that slavery to the bondholder which rests a heavy burden on the industries and the agriculture of several of the lands about the European Mediterranean.

To the difficult task imposed by the condition, the population the past history and climate of these lands and islands between the equator and the thirtieth parallel, the United States addresses itself with a confidence born of our own success and the methods tried in our own national development. Nowhere does the contrast between European and American influence in the West Indies appear more clear than when the comparison is made between the best colonial administration known, that in operation under the British flag in Jamaica, and our own policy in Porto Rico. The two islands are of nearly the same size, with nearly equal population, negro and negroid, one English in its admixture of white blood and the other Spanish. They lie side by side, substantially alike in resources, climate, soil and markets. Where British administration provides roads, over which the people who pay for them with their labor walk barefoot, our policy has been to provide schools. Porto Rico after seven years has twice the relative attendance in school of Jamaica sixty-five years after emancipation. The high peace and order of Jamaica is secured by a police force whose command is English. In Porto Rico we have sought to develop a constabulary to be in the end under native command. Pensions to English office-holders are a heavy charge in Jamaica. In Porto Rico the training of teachers is conspicuous in the budget. Higher education is unsupported in Jamaica. The island is intellectually dependent. In Porto Rico our educational policy moves towards higher institutions of learning and a university. Jamaica pays for a garrison, Porto Rico has no such charge to meet. Self-government is restricted in

Jamaica. It is carried to the verge of safety in Porto Rico. The English taxation aids the planter. Ours the small occupier. Their taxes make food dear for the man. Ours cheapen it. Their revenue system taxes occupation. Our taxes are laid on property. Jamaica is treated like an island always to be in leading strings. Porto Rico is under preparation for increasing responsibilities. Immediate prosperity is greater in Jamaica. The future holds more for Porto Rico. Our policy doubtless has the inevitable disturbance of dynamic development. English administration the calm and the arrest of static conditions.

# The Situation in Santo Domingo

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By Henry J. Hancock, Esq., Philadelphia



## THE SITUATION IN SANTO DOMINGO

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BY HENRY J. HANCOCK, ESQ.,  
Philadelphia.

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In the middle of January of this year, 1905, I had occasion to go to Santo Domingo. In the course of my stay there I investigated, as far as I was able, the affairs of the republic and made more or less of a study of the resources of the island. Without some such examination, I feel safe in asserting, it is absolutely impossible for one to understand the position or the motives which actuated our government in the execution of the protocol of January 20-21, 1905, and the situation which not only justified the agreement but made it necessary.

To comprehend the political situation, we must be familiar also with the conditions that then existed or which had previously existed in the Republic of Santo Domingo, or "Republica Dominica," as it has been known for the past six decades. This little island, from the time of its discovery, has been a hotbed of turmoil and the centre of strife. It is about the same size as Ireland, and has caused as much trouble. First under one government, then under another, the seat of the first Spanish government in the new world, the resort of buccaneers and pirates for quite a time, subject to the raids of Drake or any other enterprising English captain who fancied Spanish gold would be acceptable to his sovereign; it has had a notorious history for centuries. Before the days of the ocean cable we did not hear so much of it. In 1869 or 1870, however, General Grant, who was then President of the United States, had his attention called to its wonderful resources and made an effort to obtain control of it. His action had the warm approval and hearty support of the existing government. General Grant was much impressed with the extraordinary value to the United States of its products and crops. He clearly saw that it would round out our country by giving it an area in the tropics and supplying our people with articles of which

we are large consumers, but which had heretofore been grown on foreign soil. Its climate and proximity make fruits and vegetables available all the year round to the population of the eastern part of the United States.

President Grant undertook to have the island annexed to the United States. It was a wide departure from our traditional policy, and the proposition naturally encountered a great deal of opposition. He first sent down one of his secretaries to make a report. That gentleman came back very enthusiastic about the island. Indeed, nearly everybody who has visited Santo Domingo has come back enthusiastic about its climatic conditions, its resources and its possibilities.

In furtherance of General Grant's design, sometime in 1870, a treaty was signed and sent to the United States Senate for ratification. I do not suppose that any similar proposition in a matter of such character, in which no great interests were involved, ever stirred up more antagonism and animosity than the attempted ratification of that treaty. Mr. Sumner, whom the success of the North in the late war had made the autocrat of the Senate, accused President Grant of all manner of corrupt motives. The attack made upon the administration came like a thunderbolt from a clear sky. The opposition was without any justification whatever, and time has failed to show any warrant for it. This was the fact, and that the motives of President Grant and his cabinet were as altruistic as are the motives of President Roosevelt and his cabinet to-day, was proven by the report of the commission which was appointed in the course of the next few months. It consisted of the late ex-Senator Wade, Andrew D. White and Samuel G. Howe, the husband of Julia Ward Howe. They reported as enthusiastically as had Babcock, the first investigator; they also were strongly in favor of making some sort of an arrangement with Santo Domingo with a view to its ultimate annexation. However, the treaty was again rejected in 1871.

At that time I believe the indebtedness of Santo Domingo was only about \$1,500,000. Since then the debt has continued to increase not only in the amount due to citizens of the United States, but in the indebtedness to citizens of other countries. To-day it is about \$32,000,000. The creditors of the Republic, however, have expressed a very commendable desire to settle for some \$22,000,000.

The present arrangement by President Roosevelt is purely a business question. I do not think that we should delude ourselves with the idea that we are international philanthropists either in our extension or our maintenance of the Monroe doctrine. The Monroe doctrine is only in its infancy. It was promulgated originally for our own self-protection and for our own interest; and it is just as necessary to extend it to-day for those reasons as for any alleged good we may confer upon mankind in general or upon the Spanish-American peoples in particular.

The condition which existed in the Dominican Republic was one of continuous revolution. In fact there has been a regular series of insurrections. They have been more theatrical than real. The effect, however, has been to prevent the introduction of American capital, to a very large extent, for individual enterprises in the island, and has hindered the development of its mining and agricultural interests. The island is enormously rich. Several crops a year may be raised. The soil is rich and fertile along the rivers. The cacao and coffee are excellent and require little care. The tobacco varies very much in different districts. I have had some very good cigars made by the natives in the hills from tobacco of their own growth. It is true the tobacco all sells in Hamburg as the same grade, but it is equally true that after the Spanish-American war began large quantities of it was sent to Key West and made up and sold as Havana tobacco. Some of it is difficult to distinguish. The cattle are fair and some business is done in the export of hides. The pineapples, bananas, plantains, cocoanuts and oranges are most abundant.

I can only allude to the mineral wealth. It is unbounded. The Spaniard took untold gold out of the country, and while the mother lode from which the placer gold is washed down has never been discovered owing to the inaccessibility of the country, there are numerous veins of high grade quartz ore. Many precious stones have been found. Amber has lately been found in unlimited quantities. In fact it is the only place in the world where it can be obtained to-day outside the Baltic district.

All the more valuable woods are found in large quantities in the interior, but there are no means of getting them out. The island has been absolutely unscratched, one might say, except along the coast. It only awaits a stable government to bring about the introduction of a large amount of American capital.

I arrived at Puerto Plata in Santo Domingo a few days after the protocol had been signed, and had an opportunity to talk while the matter was fresh to many of the leading merchants and officials of the republic, as well as to Admiral Sigsbee and Commissioner Dillingham who were about to take over the Monte Christi custom house. They expressed themselves very favorably about the outlook for the island. The merchants and leading citizens were, and still are, very strongly in favor of the protocol and treaty. They impressed me as being a very frank and honorable body of men. It is needless to say that they were, and are still, strenuously opposed to all these revolutions of which we read so much. They interfere with business and destroy property. The inhabitants are, with very few exceptions, white.

One must not confuse the Republica Dominica with the black Republic of Haiti as it is depicted by St. John. In Haiti a language which passes for French is spoken, and in the Dominican Republic the tongue spoken is the customary American-Spanish. The habits, manners and customs of the two republics cannot be compared. The division of the island into two countries was owing to the difference of race and refusal of the white Dominican to be governed by the black Haitian. It is true here, as in all other of the West Indian countries, that the half-bred negroes are the leaders of the revolutions.

It is not to be forgotten in the discussion of our relations with Santo Domingo, that we are not taking possession of the island or are establishing a quasi-protectorate over it with a view to future territorial aggrandizement or anything of that kind. We are entering into this agreement, which has been so much talked about in the newspapers during the last two months, at the express request of the Santo Domingo government, for its own self-preservation and for the preservation of the rights of our creditors. It is strictly in accord with the Monroe doctrine. By taking the initiative we will avoid any complications with European cabinets, who sooner or later are bound to act in the matter. To prevent their seizing the custom houses and obtaining a foothold in the West Indies, we must act first. This President Roosevelt has done. It now only needs sufficient information on the part of the Senate for that body to support him.

It was essential that something be done. The convention be-



tween the countries had terminated January 31, 1898. The protocol and agreement entered into January 31, 1903, under which Judge Gray, John C. Carlisle and Manuel de J. Galvan, as arbitrators, had awarded an American corporation about four and a half million of dollars on July 14, 1904, had already put the Dominican custom houses, on the northern coast of the republic, under the control of United States officers. The government of Santo Domingo had defaulted in the payment of the instalments directed by the award. A systematic effort was being made to divert the importation of merchandise at the ports of entry controlled by the United States. The award threatened to become another creditor's dream.

Until the Spanish-American war it was generally the practice of the United States government to ignore the violation of the contractual relations of our people by foreign countries and their citizens. Since then, and under the present administration, as well as under the preceding administration, that policy has been materially changed. The proceedings that have taken place in Santo Domingo are one step further in the right direction. They strengthen the position of our citizens abroad; they clearly intimate to foreign nations that we will not permit our own citizens to be imposed upon, and that our government will protect them in their contracts.

In Santo Domingo a revolution does not mean any difference in political principles or anything of that sort; it simply means that a certain number of "citizens" plot together in order to seize the government and get the officers and emoluments that are incidental thereto. To have a successful revolution it is essential to secure funds and the easiest way to get them is to seize the custom houses. Therefore it has been the practice for the leaders of a revolution in Santo Domingo to lay in wait behind a coast town, which happens to be a port of entry, and to make a raid on the custom house just before a New York or another foreign steamer was due, for the purpose of collecting the duties on the cargo. In that way they obtained the sinews for their insurrection. If they were not successful in their revolutionary movement, it was easy for them to make some sort of a compromise with their opponents. They would be given offices, or even the merchants would sometimes pay blackmail to quiet the disturbances and disorders produced by these alleged "patriots." It is that very fact, the seizure of the custom houses in these revolutions, that is likely to cause so much complication.

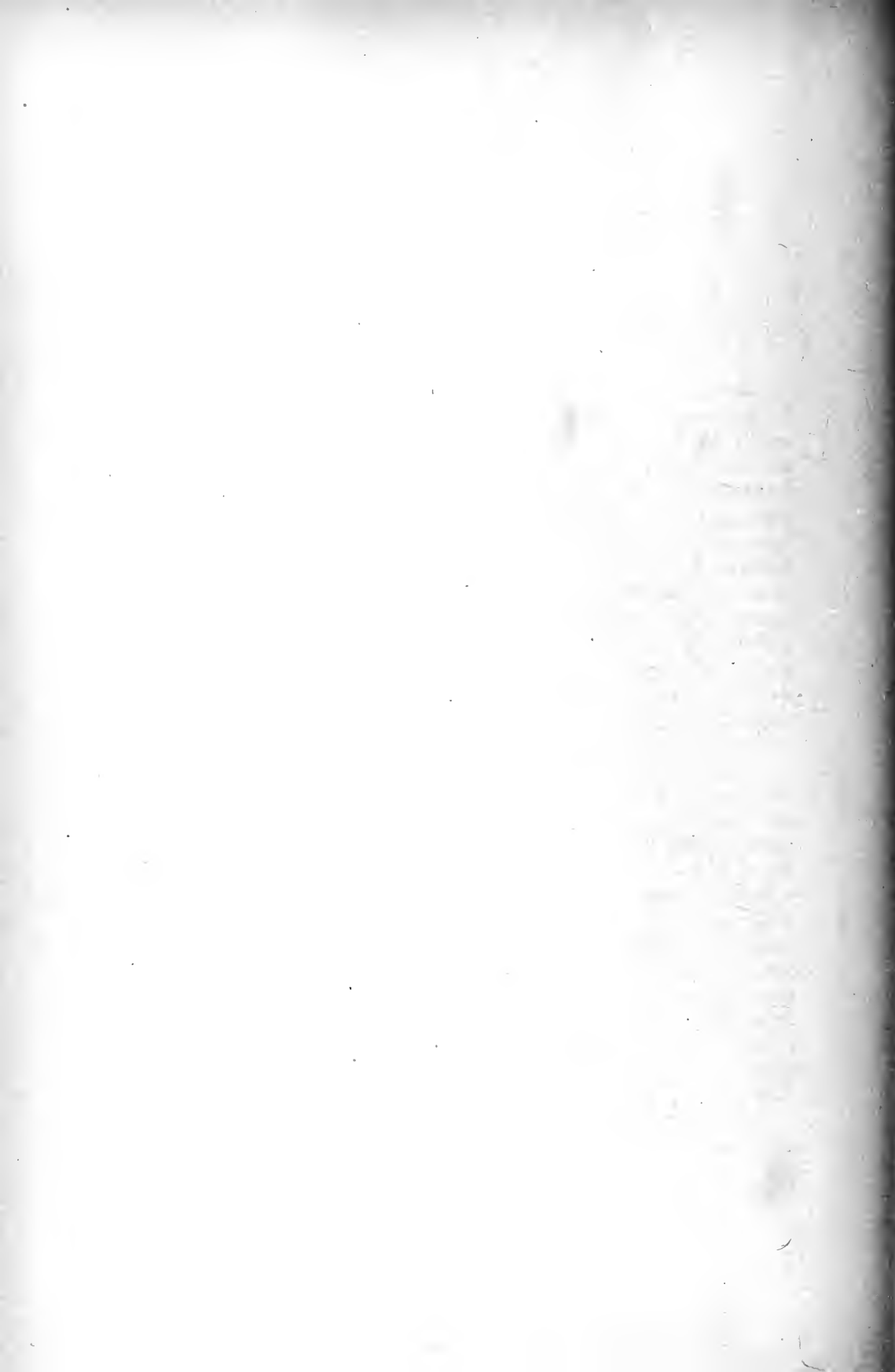
Moreover, under the various contracts and agreements which have been entered into by the Santo Domingo government from time to time with citizens of various countries, the revenues derived from certain custom houses have been specifically pledged for the payment of the interest on the obligations of the country due to foreigners. If we ourselves do not take possession of the custom houses and undertake the financial administration of the island through them, some other nation will step in and do it. The tribunal at The Hague has very properly decided that the creditors who are diligent in enforcing their claims shall be given certain preferences. If we do not push our claim we will see this island, which is clearly within the zone of the Monroe doctrine, pass into the temporary possession of another power to satisfy the claims of the citizens of that power. This is most undesirable. It is contrary to the principles that our government has enunciated. There is no reason why we should not enter into the proposed treaty.

The power of the President to make such an arrangement with a foreign nation is unquestioned. I do not know of anything that would better illustrate the exercise of this power than the dealings of our presidents with the Indians for the past one hundred years. The executive officers of the government have repeatedly, on their own responsibility, made treaties with the Indians. As far as I know from the records, the Senate has never even requested any documents connected with the making of such treaties, although of course it has ratified them in accordance with the provisions of the constitution. The question had never been raised before it was advanced by some of the opposition senators. In a recent case (reported in 170 U. S. Reports, 23), "*The New York Indians vs. the United States*," the Supreme Court of the United States decided that certain amendments to a treaty, passed by the Senate, which were not contained in the original treaty and did not subsequently appear in the President's proclamation of it, formed no part of it whatever. That is a purely technical interpretation of the right of the President under the provision of the constitution giving him power to make treaties with and by the consent of the Senate. It is ample justification, from even a legal standpoint, for the President to enter into negotiations, to carry them on and to make such provisions as he sees fit pending the ratification of the treaty.

# Conditions in Porto Rico

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By Dr. Tulio Larrinaga, C. E., Commissioner of Porto Rico,  
Washington, D. C.



## CONDITIONS IN PORTO RICO

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BY DR. TULIO LARRINAGA, C. E.,  
Commissioner of Porto Rico at Washington, D. C.

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Porto Rico is one of the most important of the islands of the West Indies; the first in size and population being Cuba and the next Santo Domingo. Then come Porto Rico and Jamaica, which are nearly equal. But we Porto Ricans consider that there is a great difference between these two islands. Porto Rico has a civilization about three hundred years old. Our educated classes, which have always been greatly in excess of those in Jamaica, have closely followed the standards of European civilization. Porto Rico, with an area of but thirty-six hundred square miles, has a population of over a million inhabitants, being one of the most thickly-populated countries in the world. It is more densely peopled than Jamaica which has suffered a great deal in recent years. When the curse of slavery was abolished, Jamaica was checked in her material development, as were the British and French colonies, and as you yourselves were in the United States.

Porto Rico is the only country in the world that abolished slavery voluntarily and deliberately by the will of her own people. We, the slaveholders, abolished slavery there. It was done in a night, without bloodshed and without friction. When by chance we secured representation in the Spanish Cortes our people united with the Spanish Republicans and passed a law that accomplished that result. The cable flashed back the news to our country, and on the following morning every slave in Porto Rico rose from his bed a free man. We not only did that, but we paid the slaveholders for their slaves. For that purpose we contracted a loan which, in principal and interest, amounted to \$14,000,000. I believe that this is something of which we may justly be proud; and it was an achievement which has not been accomplished under similar circumstances by any country in the world.

Porto Rico is a country richly endowed by nature and has always been more or less prosperous. To-day the island is suffering

from a great commercial depression caused by the loss of our markets for coffee, which is our main staple. In spite of this fact there are indications of real progress. If proof is wanting, you have only to look at the price which our coffee commands in European countries. Those countries pay the highest price for Porto Rican coffee. But we have in Porto Rico the same tariff that you have here in the States. We have there the Dingley tariff against Europe; and Europe retaliates by putting very high import duties upon our coffee. The result is that we cannot send our coffee there, where it commands a very high price, but have to send it here, to the States, and sell it at a low rate, in competition with the Rio coffee. That temporarily is a serious drawback in our financial condition. I see that Congress is preparing to remedy that evil by future legislation. I hope that the importance of remedial action may be appreciated by the leading men of Congress, and I believe that something will be done for our relief.

In the matter of education we have been more fortunate. The ablest educators have been sent to Porto Rico. Dr. Brumbaugh was successful in founding schools there; and he and Professor Lindsay, also of Philadelphia, were instrumental in establishing there an efficient system of education.

On the political side we have as the law of the land the Foraker act, which gives us some popular representation. The lower house is elected by us, but the upper house, which is called "The Executive Council," is appointed by the President of the United States. Apparently the Congress of the United States, at the time the Foraker act was framed, did not know exactly what measure of self-government to give to us. At least it was our opinion, down there in Porto Rico, that the American Congress did not for the moment care to commit itself to any specific form of government that might in the future be an impediment in the enforcement of the general policy of the country. But the American people and the American government cannot undertake to govern the island in the way the monarchies of Europe govern their possessions; the American people and the American government mean that, in accordance with the spirit of American institutions, all people living under the American flag shall have their own government. Therefore we Porto Ricans venture to hope that in the near future the Congress will allow Porto Ricans a larger measure of self-government.

### **III. Political and Military Affairs in the Far East**

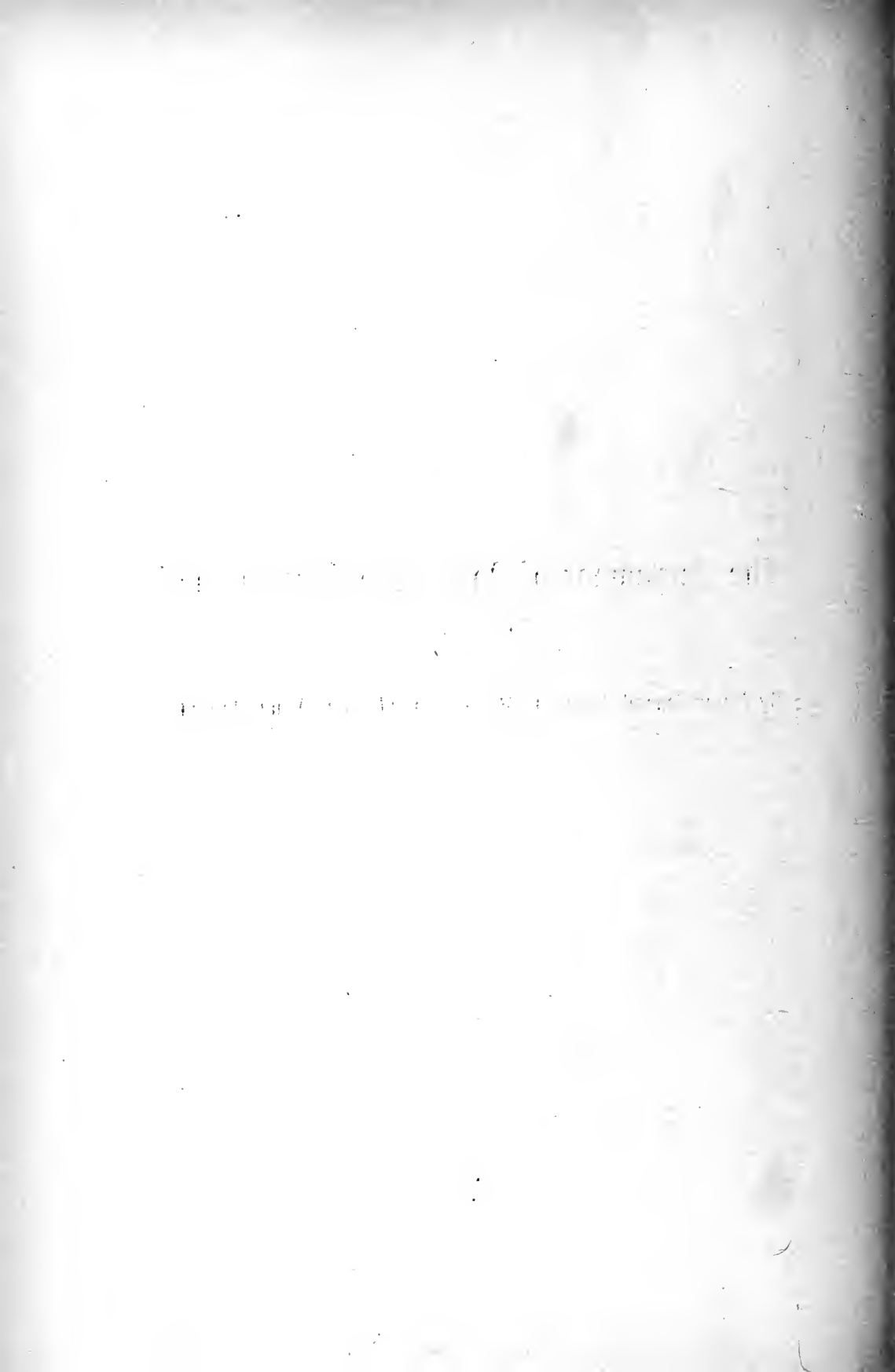




# **The Settlement of Political Affairs in the Far East**

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**By Major-General James H. Wilson, United States Army, Retired**



## THE SETTLEMENT OF POLITICAL AFFAIRS IN THE FAR EAST

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BY MAJOR-GENERAL JAMES H. WILSON,  
United States Army, Retired.

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In the popular phrase of the day, the United States are a world power which all must respect. I do not like the phrase, for it presupposes something like a recent epoch in our history. We are a world power; but be it remembered we came into existence, somewhat unconsciously to be sure, between the Declaration of Independence in 1776 and the Treaty of Partition and Peace in 1783. Followed as that treaty was by the French Revolution and a change of government forms and administration throughout Europe, our own independence marks an epoch in the world's evolution and history of which all mankind has taken note.

But interesting as the topic is, I can consider it in only one aspect. I refer of course to that one which affects our relations with all other nations, and which has especially characterized and governed our relations with the countries of the Far East. "Friendly relations with all, but entangling alliances with none," has been the high principle which has so far given us the good will and the friendly consideration of all Asiatic people. So long as we stand on that principle nothing but satisfaction can come to us.

From the earliest day of our independent life and of our relations with the Far East, we have stood upon that principle with both China and Japan. We have declared repeatedly that we have no desire for territorial possessions within the limits of either country. And they have believed and trusted us. We have declared that we have no other interests to serve but commercial interests; that we wished only to sell our products and buy theirs, on fair and equitable terms. Through our minister the Honorable Caleb Cushing, we negotiated the first commercial treaty with China, and this treaty became the model and basis of all subsequent treaties between China and the treaty powers. It wisely

contained the favored nations clause, and under the provisions of that clause, we have since secured without pressure or illwill all the advantages granted to other nations, whether voluntarily or at the cannon's mouth. We have taken no part in the opium wars, no part in the English and French invasion, and no part in the suppression of Chinese outbreaks, till the Boxer War, which threatened the destruction of our legation, our merchants and missionaries, forced us to join the allied powers and send a China relief expedition.

We have taken a similar part in relation to Japan. A little over a half century ago it was our Commodore Perry who induced the Japanese—the most exclusive people in the world—to enter into treaty relations with us. And it should be remembered that that treaty was the model of all that followed it, and that it too contained the favored nations clause.

In both the Japanese and Chinese treaties we reserved the right of extra-territorial jurisdiction, under which justice was administered and protection was secured to our own people in those countries, free from supervision or interference by native officials. We maintain that right as yet against the Chinese, but were the first to waive it in the case of Japan. Under the treaties duties on all imported articles were fixed at 5 per cent. *ad valorem*. We still hold the right to regulate as against China, but have, with the concurrence of the treaty powers, fixed the duty at 5 per cent. in gold, instead of in silver, in China, while we have allowed the Japanese to fix it at 13 per cent. and recently to increase it indefinitely.

This brings us to the "Open Door," which has played such an important part in the diplomatic relations of all the treaty powers, with China in the last five years. It is an elusive if not a misleading phrase, commonly understood to mean "free trade," but which really means nothing more valuable than the equal right of all nations to trade with all parts of the Chinese Empire, under the same and equal conditions. In its tentative or primitive form, it was contained in the favored nations clause of the Cushing treaty, which, as before stated, has always formed the basis of our claims against China, but when it was put forward in its new form, it was nothing more nor less than a request on the part of our government to the governments of the other treaty powers, that in the changes which it was thought possible might grow out of the Boxer Rebellion, they would respect our rights under the existing treaties. Well,

to say the least of it, this was a new departure in our diplomacy. While it put us in the attitude of asking unusual guarantees, it conveyed an intimation that we suspected one or more of the powers of intending to do us a wrong.

It is worthy of remark that while it brought satisfactory assurances from all, it brought them just as promptly from Russia, as from Great Britain or Japan. Nobody held back, and if anything is settled in diplomacy that is now a settled principle in the policy of all nations towards China.

But there is another principle which was accepted on our suggestion after the close of the Boxer Rebellion, during the season which was devoted to settling the indemnity, and securing proper guaranties against future outbreaks, and that was that all the treaty powers would henceforth respect the territorial and administrative entity of the Chinese Empire. Curiously enough there was no hesitation on the part of anyone in agreeing to this fundamental principle. Each nation as soon as it was asked, acknowledged its fairness, and promptly gave out its adhesion to the principle.

In this Russia was just as prompt and frank as was either Japan or Great Britain. The fact is there was, so far as the correspondence reveals, no hesitation on the part of any nation. Indeed they were acting in harmony and concert, through their representatives in Peking, as well as through their foreign offices at their respective capitals. So this may also be considered a settled and binding principle for all nations.

Now those who have followed my statement will naturally inquire what is the war between Japan and Russia about?

The answer to this takes us into the consideration of another set of facts which reach farther back than the treaties. Before summarizing them let me briefly call your attention to China and its treatment by the treaty powers.

It contains 1,800,000 square miles within the wall, and about 4,000,000 outside. Its population is estimated at from 275,000,000 by Rockhill to 425,000,000 by Sir Robert Hart. It is probably somewhere between the two. It is isolated from the rest of the world by deserts, mountains and wilderness on one side and the sea on the other. Its civilization is the oldest in existence, and until interfered with by the European powers its dominion extended over all Northern and Eastern Asia except India.

But since the Portuguese first reached its shores it has been despoiled by every maritime nation that made any pretension to colonies beyond sea.

Portugal took Macao, and holds it now.

Great Britain took Hong Kong and Burmah, a buffer state.

France took Cochin China, Tonkin, Annam and part of Siam.

Russia took all Siberia.

And recently Japan took Korea and Southern Manchuria.

In short, till the present crisis arose, China was, to use a figure of Li Hung-Chang's, "like an animal surrounded by ravening wolves." But this is not all, France and Great Britain and still later Japan have laid her under heavy contributions of money and spoils.

So long as the pack was made up of white wolves only, the world stood by without raising a voice in protest. But when our "Little Brown Brothers," the Japanese, appeared upon the scene and drove China out of Korea, wrested from her the Liaotung Peninsula, Port Arthur, Talien-wan, Formosa and the Pescadores, and took from her an indemnity of 200,000,000 Haikwan taels of silver as the price of peace, the world—or the European world at least—raised its voice in alarm if not in sympathy. The balance of power in the Far East had been disturbed. Japan had broken its insular bonds, and acquired a footing on the Asiatic mainland. The fisherman had unbottled the Afrite, which now floated menacingly above the Eastern horizon, and filled the hearts of the European white man with fear. The new situation threatened all foreign interests, those of commerce as well as those of politics. What was to be done?

There was a pause for consideration. Russia which had had a friendly legation in Peking for two hundred years, or for more than a century before any other power ever thought about it, doubtless saw the danger first, and made haste to take counsel with Germany and France if not with Great Britain. What the secret archives of diplomacy contain no one can tell, but if they do not show that Great Britain was consulted, and that she did not stand in with the others, it will be the second time that her fears got the better of her cupidity. I say the second time because it is an open secret that when Great Britain and France were allies and took Peking in 1861, Louis Napoleon proposed the partition of China, but Great Britain declined, probably for the reason that she did not

like her company and regarded France as an interloper in Eastern Asia.

Upon the occasion under consideration, she was less disinterested, for while Russia, Germany and France united in demanding the withdrawal of Japan and the surrender of her conquests on the mainland, on the payment of an additional indemnity of 30,000,000 Haikwan taels, Great Britain joined France and Germany in making a continental credit for China on which she borrowed the money.

But this is not all. When Russia took over Port Arthur and Talién-wan, as she did under a twenty-five years' lease, with the privilege of two renewals, the former for a closed port to be used jointly by Russia and China for naval purposes, and the latter a free port open to all the world, Great Britain immediately asked for and obtained a lease of Wei-hai-wei across the strait for a period "so long as Russia should occupy Port Arthur." In addition she took over Kowloon on the mainland opposite the island of Hong Kong.

Germany, it will be remembered, took a similar lease on Kiaochow and the country for fifty kilometers around it. This lease too runs ninety-nine years. It authorizes the building of certain railroads.

France, not to be left, took over the mainland between two bays north of Tonquin for the same period.

These possessions were all taken by treaty and lease made, you may rest assured, not willingly nor voluntarily by China, but under pressure. Russia's, which included a concession and right of way for a branch to her Chinese Eastern railroad through Northern Manchuria, gave her the right to build, operate and police the cut-off line and branch, and a right on the part of China to take over the road at any time within a period of thirty-five years, with an absolute reversion to China at the end of eighty years.

These treaties were all of one pattern. That of Russia was neither better nor worse than the others, but it had a better excuse than either of them. Inasmuch as Russia had held unbroken and undisputed sway over Siberia and her eastern dependencies from the beginning of the seventeenth century, and had recently built a railroad to connect them with the rest of the empire, and thus create better facilities for populating them, and giving them an outlet to ice-free ports on the Pacific, she had better justification for getting it by lease than for taking it by force of arms. Indeed

most people who stop to think about it must conclude that her show of justification was greater than that of either of the other powers. Neither of them had any interior possessions, surrounded by neighbors, through whose lands they required an outlet to the world's highway, the sea, but each had coveted and taken a part of China's territory apparently for no better reason than that it could.

However the European powers might have felt about it or justified themselves, it is evident that Japan was seriously dissatisfied with the combination against her. It is also evident now to all the world, that smarting under the injustice done her by the allies in depriving her of what she had regarded as her just conquests, she had retired to her islands, with the firm resolve to prepare for war and get back her own whenever she could.

In order that her feelings and position may be better understood certain figures are worthy of consideration.

The area of the Japanese Empire is about 142,000 square miles; her population something less than 47,000,000 souls; the family group is estimated at from five to seven souls; the entire cultivable area is about 18,000 square miles, or less than one-third of that contained in the State of Illinois, while the average family holding is a little over two acres. The overflow population is estimated at about 500,000 per year, while the per capita distribution of wealth is less than that of Russia.

A moment's consideration of these facts will show beyond a doubt that Japan drove China from Korea because she wanted that country for her own exploitation, and so far as possible for the occupation of her overflow population. Of course she will give Korea better government and a better development of her natural resources, for that is to her own interest, but there is no pretence that she intends to leave Korea to her own control, or to prefer her interests to those of Japan. In fact she went there first in pursuit of what she conceived to be her own permanent and paramount interests, and not for any altruistic or disinterested purpose whatever.

The Boxer outbreak and its consequences gave Japan an excuse for going back to China, and in going back she had just the same duty to perform that the other powers had, no more and no less. I have always held that the Treaty Powers in failing to accept her offer to go alone immediately after the outbreak, took a great and



unnecessary risk, which might have proved fatal to the legations. I have always felt that in holding her back till all could gather their troops from the four quarters of the earth, and till they were all ready to advance, they showed an unworthy jealousy of their ally and unnecessarily prolonged the peril of the legations and missionaries.

In the advance on Peking the Japanese troops easily showed themselves to be equal to the best. Seeing the perfection of their organization and discipline, and knowing something of their home resources and defenses, I said at the time that there was no power in the world that could land an army in Japan and get it out without disaster or disgrace. I also declared it to be my opinion that Japan could probably drive Russia back to the Amur River, but I doubted if she could keep her there. I believe I was the first if not the only writer of the day to predict at the outbreak of the Japan-Chinese war that Japan would prove to be easily victorious. And so it has been.

I wish to say, too, that in the negotiations of the allies with China, after the end of the Boxer outbreak, when all the powers, appalled by the consequences which would doubtless follow the partition of China or even its division into "spheres of influence and interest," when all were acting in concert with each other, I have no doubt, if the concert had been continued, and patience and moderation had continued to be the rule, all the difficulties, and they were many, might have been overcome and peace ensured on the broad principle announced by our own government, that the territorial and administrative entity of China should be respected, and that all nations should have an equal opportunity for trade in every part of the empire.

If this conclusion is correct, it becomes a matter of importance to the world to know what led to—and who was responsible for—the disturbance of the concert of the powers. This has been generally attributed to the attitude of Russia in reference to the withdrawal of the troops, with which she had suppressed the Boxer outbreak in Manchuria, rebuilt her railroad, and re-established order at the stations along the right-of-way. All this, be it remembered, was done in pursuance of her natural and treaty rights, just as any other power similarly situated might have done it—just as Great Britain did it on the Tientsin-Peking line in which she had no property right, but which was built by British engineers. The only difference in the two cases is that the Peking line was only eighty

miles long and situated in the densely populated province of Pechili, while the Russian lines were 1,500 miles long and situated in the frontier provinces of Manchuria.

But withal, when requested, Russia gave her promise to withdraw in six, nine and eighteen months—which she soon reduced to one year—provided that “no disturbance should arise and that the action of the powers should not prevent it.”

She claims that she was actually engaged in carrying this stipulation out in good faith, when the correspondence with Japan, and the demands of that power caused her to delay. What the exact facts about this are I do not pretend to know, nor do I think that any outsider certainly does. It is alleged that certain contracts or concessions were secured from Korea, which at that time, be it remembered, was an independent, autonymous power, by the Russians for timber cutting on the Yalu, and that this aroused the apprehensions and ire of the Japanese. It is said that the Tsar and the Grand Dukes were interested in these concessions, and that they were warned by disinterested officials that this would lead to war. Both sides have given their accounts of the negotiations which preceded the outbreak of hostilities. Both claim to have been right, and it is clear that both thought they had rights and interests in Southern Manchuria, which they regarded as of vital importance. Back of it all, it cannot be denied, that both wanted Manchuria—the Russians because it was traversed by their railroads, and abounded in vast stretches of wild and uncultivated lands. Japan wanted it neutralized as a protection to Korea, in which she claimed paramount interests.

Moreover, it is certain that Japan sought a *modus vivendi* with Russia but failed. It is even said semi-officially that while the concert of the nations was still unbroken, Japan made propositions to Russia looking to a friendly alliance, but this was rejected. Just what the terms of this proposition were is not known further than is set forth in the Japanese pamphlet issued shortly after the outbreak of hostilities. Presumably it was something more than they asked for therein.

But whatever it was, when it was rejected, the Japanese turned towards Great Britain, who received them with open arms. A treaty of alliance and friendship was signed, by which each power agreed to help the other in any war in which it might find itself engaged with more than one power.

This treaty was signed on January 30, 1902, and became known to the world about March 1st following. That it broke the concert of the powers cannot now be doubted. It changed the situation materially and made it certain that war would follow at no distant day. Indeed it is generally believed by people who do not, in such great matters, yield to their sympathies, that but for this treaty Japan would not have begun war when she did. If this is so it is evident that the blame, if any exists, must rest equally on Great Britain and Japan, and that in the end the consequences will probably be divided between them according to their vulnerability and the power of Russia.

On the declaration of Mr. Hay to Mr. Tower, dated March 1, 1902, it is certain that our government was absolutely ignorant of the negotiation of this treaty of alliance between Japan and Great Britain, and feared it would lead to further complication.

This declaration was followed, March 16, 1902, by a joint notification of Russia and France to the United States, that while the preliminary declarations of the treaty between Japan and Great Britain were regarded as an affirmation of the essential principles which Russia and France had repeatedly declared to be the foundation of their own policy and considered as a guaranty of their special interests in the Far East, it was naturally enough made the occasion of an ominous warning through us to the world, that: "The aggressive action of third powers or renewed disturbances in China," would justify the two "allied governments" in reserving to themselves "the right eventually to devise suitable means to insure their protection."

On the 8th of April, 1902, Russia and China signed the treaty previously mentioned which provided for the complete withdrawal of the Russian forces from Manchuria, in three successive movements, to be completed in eighteen months. On the representation of other nations, mainly the United States, this was shortened into an agreement to complete the withdrawal within one year.

But both of these agreements contained a proviso which the critics of Russia seldom mention. It gave clear and explicit warning that the agreement would be carried out only on the proviso "that no disturbance should arise, and that the action of the other powers should not prevent it."

The policy of Russia seems to have undergone a change about

March 1. This change was fairly foreshadowed, as indicated above, in the joint notice of March 16, 1902, to the United States, but it will be observed that it did not prevent the signing of the agreement with China, however much later developments may have prevented its execution.

No one can read the documents contained in the diplomatic correspondence of the times, without perceiving that Russia was not only reluctant, but slow in withdrawing her forces. It is alleged that she did not intend to do so at all. It is charged that she is generally treacherous and unreliable. It is certain that she has never put forth any detailed explanation of her plans or purposes. On the other hand, it is equally certain that she has never withdrawn her repeated declarations in favor of the "open door" policy, which it should be observed again, does not mean "free trade," but equal trade opportunities for all nations, in all parts of the Chinese Empire.

This is a sound position. It is a sound principle of international comity. It is what our government has always stood for. It is what we stand for now and what we should hereafter stand for, but what influence the conclusion of the war now in progress will have upon it, no one can say. One man's guess is as good as another's.

In order, however, that this sound principle shall be carried into effect, it is important to fix a date which shall mark the epoch or the condition of affairs from which it shall run. It is understood that our government still stands for the administrative and territorial entity of the Chinese Empire, but from what date shall we count? It is understood that we along with the other continental powers stand for the *status quo ante*. But it is important to consider if that is to date from the end of the Japanese-Chinese war, or from the close of the Boxer Rebellion, or from the outbreak of the Japan-Russian War, or must the world accept the situation at the close of the present Japan-Russian War? Manifestly Japan will claim and stand out for the latter. Who can say that she ought not to do so? The continental powers practically united, as I have shown, in insisting that Japan should relinquish her hold on the mainland after she had vanquished China. Will they dare to do so after she has vanquished Russia? And if they do, will Japan yield as she did before, or will she stand for the *uti*

*posseditis*, and defy the world in behalf of her right to hold what she has conquered? In the first case the allies had the concurrence if not the actual backing of Great Britain. In the second case Japan will doubtless have that backing to the fullest extent.

In the first case the Afrite was coaxed back into its bottle. Is it to be hoped that in the second case, it can either be coaxed or driven back?

I confess I do not know. But the conditions are now different and the presumption is that the settlement must be different.

How the present war is to end, or when it will end, I cannot presume to say. No man knows. There are ominous outgivings in regard to territorial and money indemnities, neither of which is without precedent in the experience of the modern world. Nations in such matters are presumed to do what they can, and I see no reason why the Japanese should not be expected to follow their own precedent. They exacted both a territorial and a money indemnity and besides insisted upon certain commercial advantages from China. Why should they not insist upon similar terms from Russia?

I can see no reason under the circumstances why they should not. They will probably stay on the continent this time, come what may. And this makes a permanent disturbance of the balance of power in Eastern Asia. It brings about a state of "unstable equilibrium." It inaugurates a new epoch in the history of mankind. It becomes an encouragement to every Asiatic people. It means Asia for the Asiatics. It means that the white man is no longer to dominate the yellow man. It means that the period of spoliation has come to an end. It means that Japan is awake. Finally it means that China must also awake, and that the two will awaken all Asiatic mankind.

I have always held that the YELLOW PERIL is a myth which might be ignored, and this was a reasonable view, so long as the yellow races remained separate, and without a leader. But the triumph of the Japanese in 1895 settled that. Their triumph over the Russians confirms and emphasizes it. It makes Japan the hegemon—the ruling people of the Asiatic races—and will surely turn every element of discontent in Asia towards her for instruction and guidance.

In her last, as well as her first Continental War, she was doubtless fighting for what she conceived to be her own permanent

and paramount interests, the conservation of her own possessions and independence, and for an outlet for her overflow population. But in her last war she was also fighting for China—for her territorial and administrative integrity. And except in so far as she must violate that herself, she must be expected to do what she can to make that good, as against Russia at least.

And will this task not impose upon her the task of showing the Chinese how to modernize and reorganize their government, how to develop the untold resources of that empire, how to build railroads, open mines, erect furnaces, rolling-mills and factories; how to levy, collect and disburse taxes; how to organize and administer armies and navies; how to run an honest and efficient government; in short, how to do all the things the Japanese themselves have learned to do so well?

This means an economic revolution for China. It means a new epoch in that empire. It means an end of the old—a commencement of the new.

The military consequences of all this are doubtless remote, but the economic, the commercial, the financial consequences which must necessarily precede the military consequences, are near at hand. The Japanese having shown themselves adepts in all such matters, and that they need no longer stand in awe of any nation in the world, may well insist on taking the leading part in the political and economic development of China. This means that the European who is at best an interloper and a middleman, will be dispensed with in China as he has been dispensed with in Japan. It means that Japan, which has an overflow of population, who live frugally and work for low wages, will furnish all the manufactured articles China cannot produce herself. But above all it means that occupation will be found for the countless millions of frugal, industrious Chinamen in work of which they have no conception at present.

If any person should doubt that this correctly outlines the future of Eastern Asia, let him recall the conversation between Li Hung-Chang and Count Ito, as set forth in the protocol to the Japan-Chinese treaty of Shimoneseki, which closed the Japan-Chinese War. He will there find it set forth in substance that the time has come when the yellow races of Asia should stand together to resist the encroachments of the white races of Europe. If he

still doubts that the Japanese will not take up the task of guiding China in the work of political and economic regeneration, let him read the "Awakening of Japan," by Okakura Kakuzo.

If he still thinks that China is not really awakening or that she is not certain to set up in business for herself and start in earnest upon the march of modern progress, let him read the "Letters of a Chinese Official," or my own book on China, which made its first appearance nearly twenty years ago.

If he imagines that all this may take place without affecting us, let him reflect that although we have despoiled her of no land, and now stand for her territorial integrity, we in common with every other power that had a legation, a missionary or a merchant in China, or could send a soldier to participate in the capture and plunder of her capital, have wrested from her and still hold on to an indemnity far in excess of any damage sustained, or any actual expense incurred by us.

I am not unmindful of the fact that we returned our share of the fund taken from Japan many years ago on account of the Shimonoseki affair, or that it has been proposed to return to China all that we unjustly took from her at the end of the Boxer War. I have no doubt that we should make restitution in the second as we did in the first case, and I believe we will—but our skirts are not yet clear.

And now one word as to the peace between Japan and Russia. Let us hope in the interest of all mankind, and particularly of themselves, that it is near at hand, and that it will be concluded on such terms as will make it permanent. To this end, it should be equally fair and just to the belligerents, as well as to all others concerned. It should respect and guarantee the territorial and administrative entity of Korea as well as of China. While it should at the same time provide a place for the overflow population of Japan without the displacement of any other people, it should permit an outlet from Siberia to an ice-free port on the Pacific. Above all it should provide and secure the equal right of all nations for trade with every part of the Chinese Empire, as it existed before either the Japan-Chinese or the Japan-Russian War.

Permit me to say in conclusion that while I have had for twenty years the greatest confidence in the genuine quality of Japanese civilization and the greatest sympathy with the enterprise and the

aspirations of the Japanese people, I have felt that their true policy was to confine themselves to the islands of the sea, and refrain from adventures and encroachments on the Continental mainland. I feel now, notwithstanding their extraordinary victories, that they have started upon a course the end of which no man can foresee.

While it is premature to discuss the terms, I have no doubt that peace under the conditions which I have indicated is possible. I wish I could say that I think it probable. The actual settlement, whenever it comes, must necessarily depend mainly upon the belligerents themselves, but that the consequences will more or less seriously affect the commercial interests of every civilized nation can hardly be questioned.

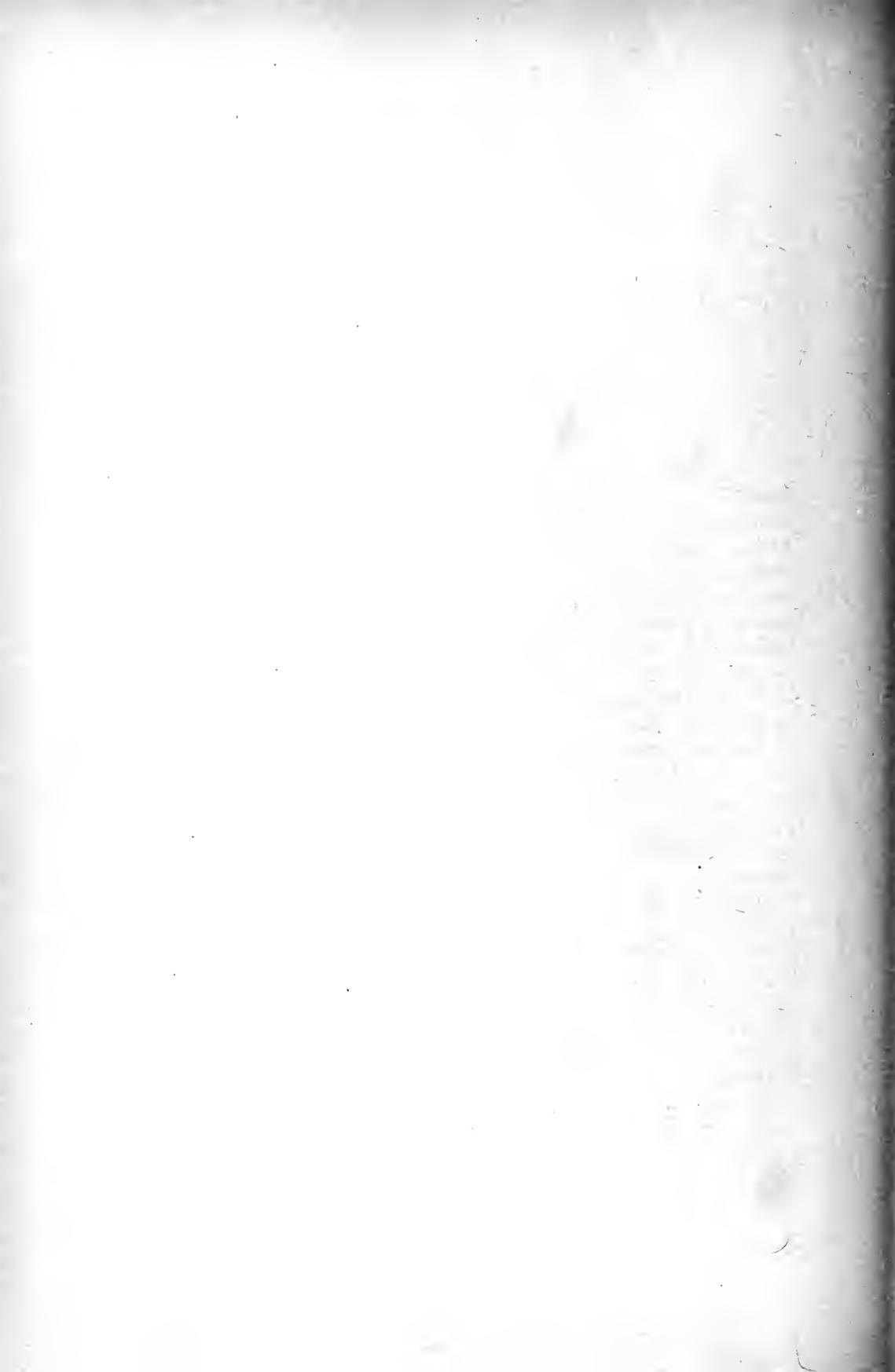
Finally, while our interests in the Far East, as I have shown, are mainly commercial, it is conceivable that through our control of the Philippines, and our participation in the indemnity for the Boxer outrages, they may become political. But whether commercial or political, or both, they certainly warrant the conclusion that at no time since our independence has our government ever been under a greater or a more imperative obligation than it is now to maintain that strict and impartial neutrality between the belligerents and the powers immediately concerned, which is the central doctrine of our diplomacy.



# Japan's Position in the Far East

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By Baron Kentaro Kaneko, Member of the House of Peers of Japan



## JAPAN'S POSITION IN THE FAR EAST<sup>1</sup>

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BY BARON KENTARO KANEKO,  
Member of the House of Peers of Japan.

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The subject assigned to me is "Japan's Position in the Far East." The Himalaya Mountains may be called the fountain head of the two great waves of human energy and endeavor of which all our enlightened modern civilization is the result. From the western slopes there began, in remote time, that Aryan march which established its dominion over the whole of Europe and flowered into occidental civilization. From the mountain's eastern sides there flowed that slower but no less profound tide which we know as orientalism.

The archipelago of Japan stands as the outpost of Asia in the same unique and fortunate position as England does in relation to Europe. Japan's geographical situation has placed it between those two tides of progress; it has been influenced by both eastern and western civilizations, and it is rapidly absorbing and completely assimilating them.

At the beginning of the nineteenth century the safety of England was threatened by Napoleon in a way that rendered her position precisely similar to that of Japan to-day. Thus far in the present war we consider that both our conduct and our achievements are not unworthy to be set beside the successes of the Britons of that day. For their Waterloo we can show the campaign that led to the taking of Port Arthur. Let us hope that the impending sea fight may be our Trafalgar.<sup>1</sup>

At the close of the China-Japanese War of 1894-95 we took Liaotung peninsula and Port Arthur as our legitimate conquests, but Russia, with the aid of her allies, France and Germany, brought such a weight of international pressure to bear upon us, that we

<sup>1</sup> This paper was read April 8, 1905.—EDITOR.

were forced at the cannon's mouth to give up our rightful spoils of victory. What happened? Japan marched out of the peninsula only to see Russia march in behind her and take possession.

Within three years St. Petersburg had made a secret treaty with China by which she made Port Arthur her naval base and extended the Siberian railroad to that important point and to Dalny. Still she was not satisfied, but obtained from Corea valuable timber concessions in the upper region of the Yalu River and proceeded to get the strategical port of Masampo at the southern extremity of Corea.

Then at last we lost belief in Russia's good faith and our suspicions seemed justified. We saw that the Muscovite government aimed to make a triangular naval base by connecting Port Arthur, Masampo and Vladivostock and thus point a littoral as well as a symbolic dagger at the very heart of Japan. But even then we were willing to appeal peaceably for some arrangement that might be made through diplomatic negotiation.

In July, 1903, we proposed to Russia a settlement by which the question of Manchuria and Corea might be arranged amicably. All was in vain; at every turn we were thwarted by the Russian government. Not until all peaceable means had been tried and had failed, did we appeal to arms. Hence it will readily be seen that we are fighting in this war for our national existence, and to defend that independence which is the very life blood of any nation.

The area of Japanese territory is only three times that of the State of New York. Therefore, when we decided to take up arms against the Muscovite—occupying one-sixth of the surface of the earth—not one Japanese was able to see a reasonable chance of our victory. But we made up our minds to fight this war before the world, as a civilized nation, and if we were crushed to death, to leave behind us the record that there was once a nation in Asia, called Japan, that dared to stand up against the power of the brutal Muscovite to defend her national honor and her righteous cause. Even before the war began we realized the complex conditions that we would have to face. We knew that the Russian army and navy would not be our only opponents. Racial and religious questions would be vitally involved in the conflict. We were well aware that Russia would do everything in her power to incite prejudice by declaring that she, as a Christian nation, was going forth to

battle against the heathen nation of Japan. We realized that she would fill Christendom with that absurd slogan, "The Yellow Peril."

With this condition of threatening prejudice we decided that we would fight the war according to the principles of humanity. This intention we have fulfilled absolutely to the letter and indeed beyond it. I could present to you innumerable instances in support of this assertion. Let one suffice. Take the case of the Russian cruiser *Rurick*, which made many sorties out from Vladivostock and frequently fired upon our peaceful merchantmen.

When those vessels were reeling and going down to the bottom of the sea, the passengers jumped overboard and struggled for their lives; but instead of lowering a life-boat, the *Rurick* fired upon the innocent victims, drowning and killing nearly seven hundred, and then calmly returned to Vladivostock.

Three months later, when the same *Rurick* was sunk by Admiral Kamimura's fleet, we lowered every life-boat, picked up six hundred and one of her officers and crew, carried them to Japan and treated them with kindness. Is Russia, then, the Christian nation, and Japan the heathen nation? Loud talking counts for nothing; it is deeds that reveal true Christian humanity.

Another precaution that we took in order that our enemy might have a fair deal is exhibited in the fact that at the outset of the war, we appointed two professors of international law to be attached to each army corps and to each naval squadron, and our commanders are in constant consultation with these advisors, so that we may fight in accordance with international law.

And now, after all these weary months of fighting, Japan can stand before the world and truthfully declare that she has not violated a single principle of international law. But Russia has violated it again and again; and in addition to this violation, our enemies have a curious practice, whenever they break an established rule of warfare, of declaring that Japan has also violated the same rule.

Among the numerous accusations brought against us by the Russian government, is that we had violated the neutral zone west of the Liao River. We investigated and found that we had not done so, but that Russia herself was the offender by reason of having made the bridges across the Liao River, of having encamped on the western side, of having forced the Chinese to sell provisions

to their army, and finally we found that they were guilty of having smuggled contraband of war.

The work of the Japanese branch of the Red Cross Society ought by this time to have thoroughly purged the occidental mind of any delusion it may have had in regard to the ignominious charges of Oriental inhumanity. The splendid efficiency of our Red Cross workers is well proven by the fact that out of all the army's wounded, who have come under their care, only one in every hundred has died. The proportion of those who die of wounds received in naval battles is one and a half out of every hundred. The larger fatality in the navy is owing to more deadly quality of the naval armaments. We have eleven hospital ships and thirty-five hundred doctors and nurses, and their ministrations are bestowed impartially on the wounded, whether they be Japanese or Russians. We treat them alike, friend and foe.

On the contrary the Russian soldiers often come into our lines with the Red Cross badge on the left arm, to reconnoitre our lines and troops. The Hague Conference agreed that each belligerent must wear the uniform of the nation to which it belongs. In Manchuria, Russian soldiers in the disguise of Chinese dress have often come into our lines, but we could not fire upon them, because they appeared like the peaceful Chinese.

When our soldiers showed to the world their bravery in this war, statements were often made in America and Europe that the Japanese are fatalists and have no idea what death is. On the contrary, we fear death just as much as the Western people, but we fear the death of our nation more than we fear individual death. We consider that the death most to be dreaded would be submission to the yoke of the Muscovite. It is patriotism pure and true which makes the Japanese die gallantly. Moreover, we have an old maxim that "A man lives only one life-time, but his name shall live forever." We believe that to die on the battlefield for a righteous cause and for the Emperor is the noblest death man can have.

Moreover, we have been training our soldiers for a long time to build up a military character by moral precepts proclaimed by the Emperor for the guidance and conduct of his soldiers. These precepts are as follows:

*First.*—To be sincere and loyal; and guard against untruthfulness.

*Second.*—To respect superiors and be true to comrades; and guard against lawlessness and indolence.

*Third.*—To obey the command of superiors, irrespective of its nature; and never to resist or disregard it.

*Fourth.*—To prize bravery and courage and be diligent in the performance of duties; and guard against cowardice and timidity.

*Fifth.*—To boast not of brutal courage, and neither quarrel with, nor insult, others, so as to incite general hatred.

*Sixth.*—To cultivate virtue and practice frugality; and guard against extravagance and effeminacy.

*Seventh.*—To prize reputation and honor; and guard against vulgarity and greed.

These are read aloud every morning after roll call by the officers and repeated by every soldier. A copy of them is also placed in each soldier's berth, where he can see it the last thing at night and the first in the morning. And, better than all else, every one of the rules is implicitly obeyed.

It has often been said that the Japanese are a race of imitators. This is true, but in a very remarkable and worthy sense of imitation.

It is true that we seize upon whatever we see is good in the products of western civilization, but it also must be noted that we never reproduce these products without improving upon them. We have already shown in this war our ability to invent by making improvements in rifles, guns and explosives. The rifle invented by General Murata and bearing his name, Major Arisaka's mountain, field and siege gun, and Major Shimose's improved smokeless powder are instances of the fertility and value of our adaptation and improvement.

Our sanitary arrangements in this war have been acknowledged by the whole world the best ever known. We have received no treasure from the occident that we have not returned with some improvement.

During the last few years, England, Japan and the United States have been rapidly increasing their trade with China, as is shown by the reports of foreign trade of China. Thus the three nations naturally advocate the "open door policy." The following table will show the relative positions of England, Japan and the

United States in the commercial relations between China and the foreign countries.

Chinese foreign trade (estimated in taels) 1902:

IMPORTS FROM	EXPORTS.
Hong Kong..... 134,000,000	Hong Kong..... 83,000,000
England ..... 58,000,000	Europe and Asiatic Rus-
Japan..... 35,000,000	sia ..... 51,000,000
India ..... 33,000,000	Japan..... 28,000,000
United States ..... 30,000,000	United States ..... 25,000,000
Europe and Asiatic Rus-	England..... 10,000,000
sia ..... 19,000,000	India ..... 3,000,000

This war is not simply a conflict between Russia and Japan, it is the struggle between continental militarism and maritime commercialism. The first, represented by Russia, France and Germany, is leaning toward the dismemberment of the Chinese Empire, whereas, England, the United States and Japan are advocating what will be for the interest of the world's commerce and are always striving for the "open door policy" in China. In this war, Japan, beside fighting for her national existence, for international righteousness and for universal humanity, is fighting to maintain the "open door policy" in China, to prevent the unjust partition of the Celestial Empire, and to introduce Anglo-Saxon civilization into the Far East.



# American Commercial Interests in the Far East

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By John Hays Hammond, Esq., New York City



## AMERICAN COMMERCIAL INTERESTS IN THE FAR EAST

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BY JOHN HAYS HAMMOND, ESQ.,  
New York City.

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I purpose briefly to discuss the situation in the Far East with reference to the policy best adapted to further America's commercial interests in that industrial sphere, if indeed any such policy still remains to us.

Whether or not the war between Russia and Japan might have been prevented is now an academic question; the issue has been relegated to the arbitrament of physical strength and the two nations are in the throes of a mighty war. But it is believed by many authorities on international politics that concerted action on the part of England, America and Japan for the maintenance of the "open door" policy in the Far East would have prevented the present hostilities, had these three powers pledged themselves in unmistakable language to the enforcement of an international demand for this policy even to the extent of waging war. That this course would have been incompatible with American traditions I admit, but the history of the next few years is likely to demonstrate that it would merely have been anticipatory of a policy which will become imperative should we, and the other nations chiefly interested, not be able otherwise to protect our interests in the exploitation of the commerce and industry of the coveted markets of the myriad-peopled Orient.

I shall not, in this short review, attempt to deal with the moral aspects of the situation. It is not a question whether Russia was justified in pursuing a course which induced Japan to wage war, nor whether Japan's action was justifiable and altruistic. Nor do I propose to consider the subject from any sentimental point of view. Therefore, in the material considerations involved, it is not necessary to take cognizance on the one hand of the debt of grati-

tude which our nation undoubtedly owes to Russia for favors received, neither, on the other hand, need we be influenced by our admiration for the heroic qualities displayed by the Japanese on the battlefield, nor for the brilliant achievements of this remarkable people in the development of their nation's greatness.

If it had been possible to prevent Russia's territorial aggrandizement and her usurpation of a dominating political position in the vast regions involved, and in this way to have safeguarded America's commercial interests, I believe that our material ends would have been best subserved by an affiliation with Russia rather than with Japan. I admit, however, that the awakening of our national sympathy on behalf of Japan has under all the conditions been warranted, and, perhaps, inevitable.

Nor do I question the honest intentions of Japan in the professions she made at the beginning of the war, professions which were largely altruistic. Nevertheless I cannot but believe that national expansion will compel her to abrogate these promises as to the recession of an important portion of the territory she will have acquired should the war terminate in her favor as seems to be almost assured.

The strategic position which Japan will have obtained commercially by reason of the suzerainty, if not, indeed, the ownership, she will have established over Corea, and possibly Manchuria also, will render her our most formidable competitor in the Far East.

America's interests in this respect will undoubtedly run counter to those of Japan. Japan is the one nation, as I view it, which can compete with us for commercial supremacy in that part of the world. The contest will undoubtedly be a bitter one, not only because of our conflicting commercial interests, but it will be aggravated by those racial antipathies even now agitating our Pacific Coast States. In that section there is a strong movement to extend the principle of the Chinese Exclusion Act so as to include Japan also in its provisions. Retaliation will naturally follow on the part of Japan, who will have it in her power to obstruct our trade with the Orient for she will not show the same unprotesting submission as has China hitherto.

The influence of the sea power in the history now making—this is the real writing on the wall. If Japan secures a war indemnity from Russia, a large portion of this will be expended on in-

creasing her fleet. In any case, those victorious islanders who are cradled on the sea and have shown such a splendid capacity for naval warfare are certain to better secure themselves by a very powerful navy against any further Russian aggression.

Their naval preparedness will require that we also shall keep powerful squadrons on the Pacific. True, the completion of the Panama Canal will make our entire navy more mobile. Still, we are now vulnerable in the Pacific at Manila and Honolulu, and strong Pacific squadrons will be our policy of insurance as the outcome of the Japanese victories. And not only must we ourselves build fresh fleets, we must cultivate the closest relations possible with that other power which has also great Pacific possessions to protect,—from Tasmania and Sydney to Puget Sound; from Singapore and Hong Kong to Wei-hai-wei.

The war involves then that we, and Great Britain also, must maintain formidable naval forces, with strong Pacific bases, and that the most intimate relations must characterize the diplomacy of the two great English-speaking races.

The English admiral, Chichester, said at Manila to the admiral of another fleet, "Only Admiral Dewey knows what I should do in a certain contingency." That, perhaps, without any formal alliance must be the unbroken relationship between the American and British admiralities.

The present war will leave Russia in a crippled condition financially. She will be compelled to go to the money marts of the world, not only to supply the immediate wants of her government, but also for the capital for an industrial development upon which her national recovery must now depend. As a condition precedent to any considerable contribution by foreign capitalists, Russia will be compelled to carry out sweeping political reforms and also radical economic changes in her fiscal policy. Therefore, it is not unlikely that despite the costly war, her defeat may be to Russia a blessing in disguise.

Quite as indispensable as capital to Russia will be the securing of the assistance of foreign captains of industry; for, she is lacking in that middle class, through which the varied resources of other nations have been developed. In Russia there is no social stratum between noble and peasant, and neither of these has the capacity for an industrial development outside of agriculture.

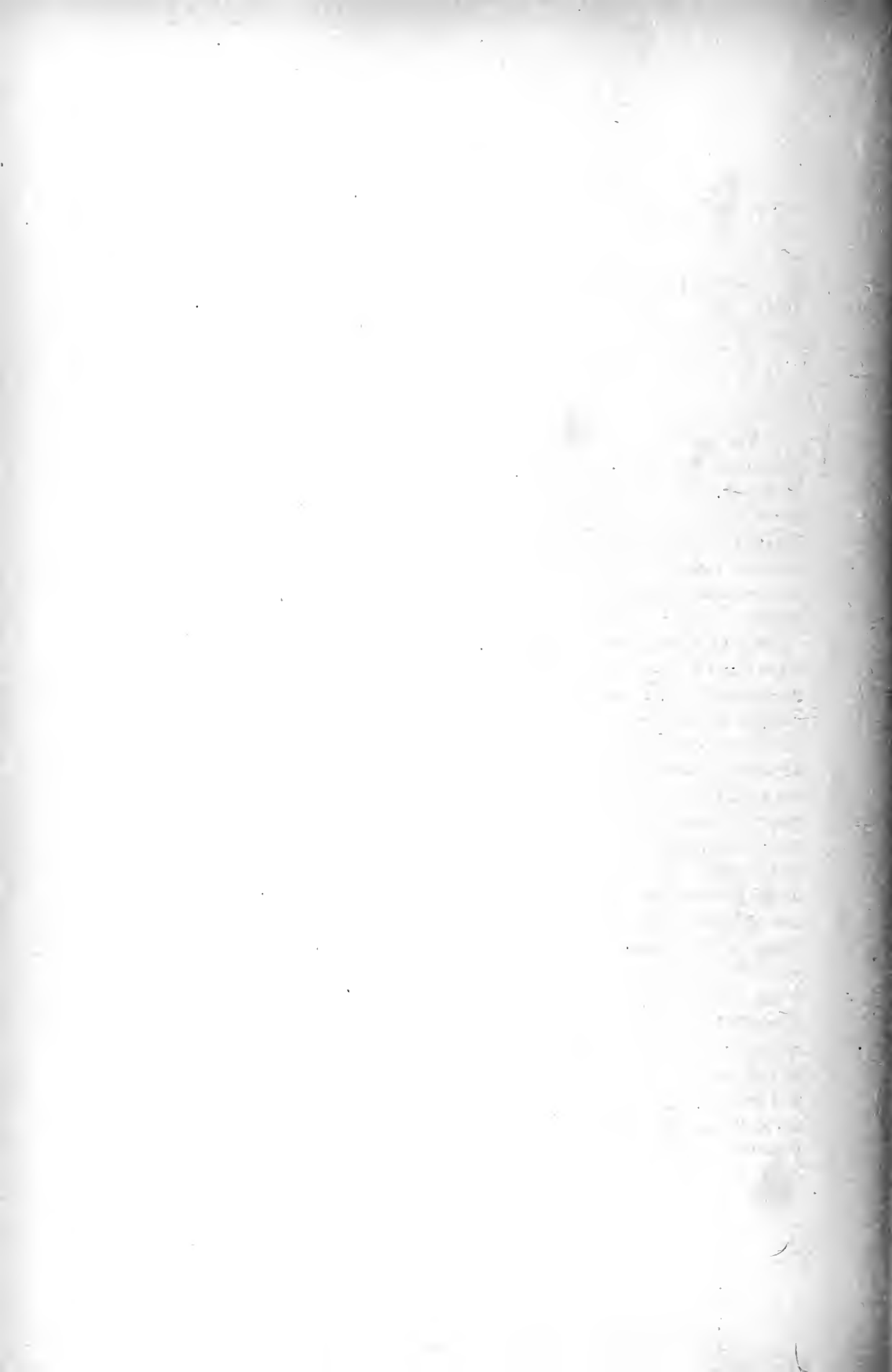
Had it been possible for our capitalists and our captains of industry to have co-operated with Russia in the development of her possessions in Siberia and in other parts of her eastern empire, Russia would have afforded a very remunerative field of investment for American capital; it would have afforded employment to Americans to personally conduct the exploitation of these resources, and to our factories would have come the demand of the Orient for the machinery required for this great work.

Politically our aims and aspirations would have been certainly less open to suspicion and objection by Russia than those of any other nation. Had we been able to co-operate with Russia, we would not only, I believe, have secured a very important market in Russia's Oriental territory, but the initiative in the development of the resources of Manchuria, Corea and China would have been ours, together with much of the trade that would naturally follow our operations in those countries.

# **The Internal Situation in Russia**

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**By Honorable Charles Emory Smith, Philadelphia**





## THE INTERNAL SITUATION IN RUSSIA

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BY HON. CHARLES EMORY SMITH,  
Philadelphia.

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The internal situation in Russia is rightly considered in connection with the settlement of political affairs in the Far East, because it deeply affects the ability of Russia to carry on the war. The home situation and the war situation react upon each other. The disasters of the war have greatly aggravated the internal disorders, and the violent disturbances within the empire have prevented the government from putting all its strength into the struggle in Manchuria.

Of all nations of Europe, Russia seemed to the casual observer, a year and a half ago, to be the most settled, the most stable and the most sodden. It had gone for three centuries with little structural change or advance. The autocracy appeared to be firmly seated. The body of the people were ignorant, patient and submissive. With apparent suddenness and immediately in conjunction with the gravest external calamities which any nation has suffered for a century comes a violent and convulsive outbreak. This upheaval, if not revolutionary in form, is essentially revolutionary in character and in substance. It is aimed at results which involve a radical change in the government, and it has taken such a hold upon the nation and has obtained such an impulse that it is really epochal in its significance and its consequences.

This movement, though apparently sudden in its violent outbreak and in its dramatic form, had its origin some years ago. Though brought to a head by the appalling failures of the war, it sprang from anterior causes. It is in reality a revolt against the abuses and evils of the bureaucratic government. It has two sources and points in two directions. The first is industrial and the second agricultural. Under the policy of Witte, who became Minister of Finance in 1892 and who was the chief force in the administration

of the empire for ten years, Russia has had a new and extraordinary industrial development. Within ten years the number of hands employed in the industrial arts more than doubled. The consumption of cotton in cotton manufactures nearly trebled and in iron manufacture Russia rose to the fourth place among the nations, ranking next to Germany and ahead of France. During the same time more than 17,000 miles of railroad were opened and in a decade the passenger traffic multiplied five fold and the freight traffic more than eight fold.

This rapid and remarkable growth has developed an industrial class in the large centres of population quite distinct from the peasantry of the country. It was recruited to some extent from the latter, but with more activity and with an infusion of other elements, it became more alert and susceptible. The riotous outbreaks which began in St. Petersburg, culminating in the bloody conflict of the Red Sunday on January 22, came from these workers. They extended through many large cities where industrial establishments existed until the whole body of the laboring population seemed to be violently arrayed against the existing order and the nation was seething with ferment and disturbance. The ostensible cause was labor grievances, but the underlying impulse was political agitation inspired by the radical revolutionists and aiming at the overthrow of the present organic structure.

The second source of discontent was earlier in origin and is more conservative, deep-seated and far-reaching. Though the labor disturbances have been the more aggressive and violent, the other movement is one of broader basis and of more portentous character. It rests upon the great agricultural element and is centered in the wide demand for the extension of the Zemstvo institutions. It is liberal in spirit, but not destructive in purpose. It is reformatory rather than anarchistic. It is revolutionary in the sense of looking to a radical change in the representative character of the government, but not revolutionary in violent thought and method. It embraces not only the leaders of the peasantry and a considerable body of independent landholders, but the educated people in the cities. And it embodies the hopes of the thinking and progressive classes who see that the archaic system of Russia is alien to the spirit of the age and that both for safety and for advance it must acquire a more representative character.

Russia presents a curious paradox. Theoretically, it combines the most extreme autocracy with the most extreme democracy. The local unit is the *Mir*, or village commune. These village communes in which the land is held in common and apportioned for cultivation among the families, embrace the great body of the Russian people. They are wholly democratic in organization and government, though their scope is limited purely to local concerns. They are grouped together in districts, and district *Zemstvos*, or assemblies, are chosen by elective bodies which include each class of the community. The district *Zemstvos*, which are made up of peasants as well as nobles, in turn elect the members of the provincial *Zemstvos*, or assemblies, of which there are thirty-four in all, covering thirty-four of the provinces of the empire. These *Zemstvos* were a part of the reforms instituted by the liberal emperor, Alexander II, and were designed to establish a large measure of local autonomy in matters of local concern.

But when Alexander II was assassinated and reactionary rule set in, the freedom and the power of the *Zemstvos* were greatly reduced. Their authority was largely usurped by the governors of the provinces who stood for the bureaucratic administration. A steady conflict has been going on. This has been specially exemplified in the matter of education. The *Zemstvos* had been originally empowered to provide for schools and they have had a liberal disposition in this direction. But from the first the bureaucratic administration, which was hostile to public education and held it to be dangerous to the Russian system of government, has done everything to embarrass and thwart the movement of the *Zemstvos* for popular instruction. Restrictions of all kinds were interposed and matters went so far that in many cases where the *Zemstvos* had voted the money and built the schools they were constrained to surrender them to the Minister of Public Instruction. Strangely enough, the ministry charged with the care of public education was the most hostile to it, and frequently where it could not destroy the schools established by the *Zemstvos*, it sought to undermine and nullify them by creating rival church schools which reduced education to the narrowest limits.

Another grievance of the most vital character related to the tenure and cultivation of the land. The condition of the peasantry has been of the most appalling character. The apportionment of land in the communes is insufficient for the growing needs. The

agricultural implements are of the most primitive kind. The crop yield per cultivated dessiatine is lower than in any other country in Europe. The taxes are so heavy that a large part of the crops must be sold to meet this demand instead of being used for self-support. The later Russian policy has required heavy exports for its maintenance. The result is that while Russia produces less grain per head than is consumed per head in any other country, she is, at the same time, the second grain exporting country in the world. This fact tells how little is retained for her own sustenance and explains in part why Russia is in a state of almost chronic famine.

All these wrongs and evils together have incited a movement for relief which has taken the form of a demand for enlarged political freedom and social regeneration. Three years ago, the present emperor created a central committee of agriculture under the presidency of Witte to consider the measures necessary to meet these difficulties. This body was supplemented by local advisory committees largely made up from the Zemstvos, and the majority of these committees made recommendations which showed the drift of opinion even then. They insisted that elementary education should be extended; that Zemstvos should be established in provinces where they did not exist and made more representative with larger powers; that the system of village communes should be reconstructed so that through their representative expression the peasants should have equality with others and that free discussion of economic questions should be allowed. Following these demands, a memorandum was presented to the Czar, urging that their old powers should be restored to the Zemstvos, that they should be arranged in groups and that these groups should elect delegates to a central or national Zemstvo. Here, three years ago, as will be seen, was a suggestion of a national assembly. The effect was plain when in response to the various demonstrations the Czar, in February, 1903, issued a manifesto which, while not conceding all of the demands, held out high promise.

Thus it will be noted that there was a strong agitation for a more liberal system before the war came on. It was not then aimed at the autocracy, but at the bureaucracy. It was the general belief and the common saying that the bureaucrats stood between the emperor and the people. The existing evils were charged to the arbitrary and repressive administrative machinery. They were laid not

to the Emperor, but to such oppressive agents as Plehve, the late Minister of the Interior. As indicated in the Czar's manifesto, assurances were given of relief, but, unfortunately, they were largely nullified through reactionary influences and vacillating purposes. Then came on the war with its demonstration of the hollowness of the Russian system and of the amazing incapacity of bureaucratic rule. Bureaucracy was a conspicuous failure at the only point where any possible merit could be claimed—that of making a strong military power. This demonstration and the calamities which followed it deeply intensified the sentiment for the overthrow of bureaucratic rule, and the meeting of the Zemstvo presidents at St. Petersburg last November, where this sentiment received formal and deliberate expression, was one of the most imposing and significant events in Russian history.

Since then the agitation has become more profound and explosive. It has moved on with the violent industrial outbreaks which we have seen until it has seemed as if the empire stood on the crater of a bursting volcano. These eruptions have been met with weak promises and feeble action. What impresses observers is the apparent doubt, hesitation and imbecility of the government. It seems to have been struck with paralysis. But it is morally certain that the people of Russia, having at length found their voice, will not be silenced until they secure large gains in the form and substance of representative institutions. Whether this advance will come through prudent and timely concessions on the part of the government, or whether it will come through a great cataclysm, no man can yet venture to predict.



## IV. Factors of Efficiency in Modern Warfare





# The Important Elements in Modern Land Conflicts

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By Brigadier-General Tasker H. Bliss, General Staff, U. S. A.,  
President, Army War College



## THE IMPORTANT ELEMENTS IN MODERN LAND CONFLICTS

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BY BRIGADIER-GENERAL TASKER H. BLISS,  
General Staff, U. S. A., President, Army War College.

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Were the time given me far longer than it is, it would be impossible to treat the subject of "The Important Elements in Modern Land Conflicts," even in the merest outline, since in reality it covers the whole scope of the art and science of war. The important elements, you may say, are those which are the most important to success; but in war all elements are essential, none can safely be neglected and those which to the casual observer may seem the most trivial are the most important of all. At this moment, somewhere in the Indian Ocean, not alone the relative valor and skill of Russian and Japanese sailors but the breaking of a propellor, the interruption of the electric current which works a gun turret or an ammunition hoist, the jamming and accidental explosion of a torpedo may, during the slow processes of centuries to come, give a new trend to the civilization of the world.

But I know very well that you have not come here to-night in the hope of hearing an abstract discussion of the relative degrees in which this or that element contributes to success in war, or the neglect of them, to disaster and defeat. I know very well what it is that makes an audience such as this, gathered in such a place, ready to listen to what may be said upon a subject so foreign to your daily business and studies, to your inherited and cultivated modes of thought. Your interest has been inspired by those tremendous events of recent occurrence and still occurring in the Far East, and that interest is accentuated by the knowledge that these events are not the incidents of a mere dynastic quarrel, a struggle of similar peoples over a boundary line, or one of those violent evidences which every civilization gives at times of its passage from its lower to its higher stages of development. You know that it is not one of those

struggles by which a civilization adapts itself, in a series of rude shocks, to a changed environment and thereafter, until new trammels are imposed requiring new violences to secure freedom of movement, moves by a slightly different path, but in the same general direction in its pursuit of higher and nobler ideals. On the contrary you feel that it is, possibly at least, one of those collisions which at epoch-making periods occur between different forms of civilization, the rare and terrible drama of civilization *vs.* civilization, of every act of which, for the first time in the history of the world, the whole race is a spectator. When, centuries ago, on the plains of Tours, Charles Martel beat back the wave of Moslem invasion, the world little knew and it required long years to realize that that event perhaps determined whether the civilization of the Crescent or the Cross should dominate in Europe. Shall Mukden and Liao Yang or some other, as yet unnamed, battlefield mark the limit of high tide to one of the two civilizations now opposing each other in the East and, if so, to which one? You remember those words of grave import which close one of the "Letters from a Chinese Official," addressed to all nations of the West; "In the name of Christ you have sounded the call to arms! In the name of Confucius we respond!" Are the tread of Japanese armies and the booming of Japanese cannon the first sound of the voice of a forerunner of Confucius sounding in the Wilderness of Manchuria?

Whatever we hope or fear, as to the result, it is this general idea which makes you willing to give one entire session of your annual meeting to the subject of war. And I have no doubt that in the minds of many of you there is an especially sad interest in the demonstration now being made before your eyes—and contrary to your hope and expectation—that war is still possible and that the character of the great epochs in the history of the world, the dominance of this or that form of civilization over parts of the human race or over the race itself may be determined through this horrible agency in the future as in the past. Therefore, I think it will be of interest and profit to devote a few moments to a hasty investigation, in the light of recent events, of the curious phenomenon that modern agencies of destruction render more rather than less possible conflicts of bodies of men armed with them. It will then appear that the relative importance of the elements which enter into such conflicts—organization and preparation in peace, the strat-

egy of the theatre of war, the grand and minor tactics of the battlefield, the value of the three arms—remain just what they were before.

It is not long since the late Professor Bloch published his celebrated book, entitled "The Future of War." It is said that its conclusions, more than anything else, influenced the Czar Nicholas to take the part which he did in the establishment of the peace tribunal at The Hague and in that respect at least the work was of lasting benefit to humanity. By an array of facts, incontrovertible by any other demonstration than experience, he proved that the last great war had taken place, that the presence of two hostile modern armies upon the same field was a physical impossibility, or that at the most there could be but one more such war in order to convince the world of the truth of his conclusions. He said, to quote his own words, "With the weapons now adopted the effectiveness of fire presents the possibility of total mutual annihilation." After making what he considered due allowance for the diminished effect of fire in battle as compared with the results of peace experiments, he shows that a body of 10,000 infantry cannot advance against another much smaller body over the average ground of a battlefield without losing, were that possible, more than its entire strength before reaching its enemy's position. He proves that artillery will be put out of action and unable to withdraw from the field by the fire of invisible riflemen, and that it is a physical impossibility for two men to approach each other to the point where either could use the bayonet. In a remarkable chapter entitled, "Does Russia Need a Navy?" he demonstrates that even for purposes of material aggrandizement she does not need one. He dismisses all those conditions which were being formulated as he wrote, and which are now being realized in Manchuria with these words:

"From the direction of Japan there can be no serious danger. The Amur territory of Russia is a wilderness which Japan cannot threaten. It is inconceivable that she would enter upon a war with Russia even though she were possessed of a preponderance of battleships."

Well, that "inconceivable" war has now been waging day and night for more than a year; the thunder of Japan's cannon and the tramp of her armies are now reverberating in the valley of the Amur, and during every moment of this time the infantry, cavalry and

artillery of both Russia and Japan have been doing all those things so clearly proved to be physically and morally impossible.

The truth is terrible enough and always has been so; the picture presented by Professor Bloch would, if true, be still more terrible, but we do not stop often enough to think what the real grave import of its terror would be. He congratulated himself that what he believed were new horrors added to war would forever make war inconceivable and impossible. And many another kindly and gentle soul has cherished the hope that the fear and horror of it would accomplish what the spirit of love and reasonableness has thus far failed to do.

His conclusion results from an exhaustive study of the resisting force, the moralé, to be expected in an army of men of any Occidental nation. He assumed—what is true—that the army which is defeated, which retreats or surrenders, is a live army; that the dead and seriously wounded do neither of these things, but that the ultimate action of the uninjured men is determined by the effect upon their moral resisting force produced by the dead and wounded. He further assumes—which is equally true—that under given conditions there is an assumable limit when this resisting force begins to dissipate and that it is coincident with the moral effect produced upon the uninjured men by a certain percentage of casualties in dead and wounded. His ultimate conclusion is that the assumable limit has already been more than reached and he bases it upon two assumptions, first, the unquestioned increase in the power of military agencies for destruction, and second, an actual decrease in the moral resisting power of men of western races—their increasing repugnance to the idea of death and physical suffering, characteristic of their very civilization itself. The first of these latter two assumptions is, as we shall see, without foundation in fact. That the second one may be true is conceivable; but if true it is full of omen to those who speculate upon the fate of that civilization which we still hope may dominate the world.

Two facts connected with this matter we must not lose sight of. The first is that thus far there have always been at least two radically different forms of mentality or spiritual force—call it what you will—that have steadily impelled forward at least two radically different forms of civilization. Each of these either receives power from or gives force to its own peculiar forms of material and spirit-

ual philosophy. And all human history is made of the records, on the one hand, of the tremendous internal struggles which indicate the successive steps in the development of each of these systems; on the other hand, by the still more tremendous struggles which mark the collisions of the systems themselves. The second fact is that all the material advantages which result from the development of either system are readily communicated to and absorbed by the other without producing any necessary effect upon the peculiar modes of thought out of which this other grew. On any day you may enter a Pullman train in the city of Calcutta drawn by an American locomotive. In the coaches you meet gentlemen whose skin is of somewhat different hue from your own, faultlessly attired in western costume, who will converse with you in a western tongue about western customs, philosophies and forms of religion,—and who are being carried in that very embodiment of western Christian civilization to worship an idol in a temple of Delhi. At this moment the products of every western science, art and manufacture are being employed to make successful the advance of armies of Buddhism, Taoism and Confucianism. Of those who cherish the hope that western civilization may so reduce the moralé of its adherents that, combined with the anticipatory terrors produced by modern agencies of destruction, they will refuse to engage in any war at all, I ask whether that hope can be very consoling so long as these same agencies of destruction are in the hands of hundreds of millions of men whose moralé has not thus been reduced, and to whom the idea of death and physical suffering in advancing another antagonistic civilization is as the breath of their nostrils?

The error in all these assumptions as to the effect to be produced by modern weapons on the battlefield lies in the failure to observe that, under average conditions, the amount of loss that any body of men need suffer, depends entirely upon themselves. They can always either lie down or run away or surrender. And that is just what soldiers on one side or the other have done in every battle from the beginning of time. In every battle the agencies for destruction as used by one side have, at some point on the field, been more terrible than the other could endure. And if that point happens to be the critical, the all-important one, as in the nature of the case it generally is, that side is defeated.

But Professor Bloch's imagination conceived a picture of total

mutual annihilation along the entire line of battle. In his fancy he saw a modern battle as made up of an enormous number of duels, each between two men face to face and armed with perfect weapons. Even then an application of the mathematical laws of probability would place the average maximum loss of both sides combined at about 50 per cent. Curiously enough, we have to look backward to more barbarous ages and cruder weapons to approach a realization of his picture rather than to the present or future times with warlike appliances more nearly perfect. As a matter of fact there is no record of any land battle for centuries in which such a loss has occurred, while the percentage has been constantly decreasing and that of the war now progressing in the East has thus far been less than that of any previous great war.

I have spoken of the phenomenon, amounting to an actual law, that the percentage of casualties in battle, other things being reasonably equal, decreases in proportion to the perfection—length of range, accuracy and inherent destructive character—of the military weapons employed. Let us look at some of the historical facts which demonstrate this, beginning with about the time when the increasing perfection of fire-arms had caused such weapons to replace the hand weapons of mediæval and ancient times. From these we can easily trace the development of the law of which I speak.

The following is a table of the principal battles fought from the beginning of the Seven Years' War, in the eighteenth century, to and including the battle of Mukden, in the twentieth:



SEVEN YEARS' WAR.<sup>1</sup>

Battle.	Forces Engaged.	Percentage of loss.	Duration of battle.	Percentage of loss per hour.
Mollwitz .....	Austrian .....	24.0%	6 hours	4.0%
	Prussian .....	22.2%		3.7%
Chotusitz .....	Austrian .....	22.4%	4 "	5.6%
	Prussian .....	17.2%		4.3%
Hohenfriedberg ..	Austrian .....	20.0%	5 "	4.0%
	Prussian .....	6.0%		1.5%
Kesseldorf .....	Saxon .....	34.0%	2 "	17.0%
	Prussian .....	10.8%		8.4%
Rosbach .....	French .....	15.9%	1½ "	10.6%
	Prussian .....	2.4%		1.6%
Leuthen .....	Austrian .....	28.0%	4 "	7.0%
	Prussian .....	19.2%		4.8%
Zorndorf .....	Russian .....	42.7%	7 "	6.1%
	Prussian .....	33.8%		5.5%
Hochkirch .....	Austrian .....	15.0%	3 "	5.0%
	Prussian .....	24.0%		8.0%
Kunersdorf .....	Russian .....	26.4%	6 "	4.4%
	Prussian .....	43.2%		7.2%
Torgan .....	Austrian .....	29.0%	5 "	5.8%
	Prussian .....	32.0%		6.4%

WARS OF THE FRENCH REVOLUTION.<sup>1</sup>

Jemappes .....	Austrian .....	7.0%	7 hours	1.0%
	French .....	2.1%		0.3%
Neerwingen .....	Austrian .....	6.4%	8 "	0.8%
	French .....	8.8%		1.1%
Fleurus .....	Austrian .....	4.5%	15 "	0.3%
	French .....	7.5%		0.5%
Trebbia .....	Allies .....	18.0%	30 "	0.6%
	French .....	21.0%		0.7%

NAPOLEONIC WARS.<sup>1</sup>

Austerlitz .....	Austrian .....	12.8%	4 hours	3.2%
	French .....	10.4%		2.6%
Jena .....	Prussian .....	19.8%	6 "	3.3%
	French .....	13.2%		2.2%
Eylom .....	Russian .....	27.0%	10 "	2.7%
	French .....	21.0%		2.1%
Borodino .....	Russian .....	33.0%	15 "	2.2%
	French .....	27.0%		1.8%
Waterloo .....	Allies .....	16.0%	8 "	2.0%
	French .....	24.0%		3.0%

<sup>1</sup> Col. Maude.

## CIVIL WAR IN AMERICA.

Battle.	Forces Engaged.	Percentage of loss.	Duration of battle.	Percentage of loss per hour.
Gettysburg .....	Federal ( 88,289) ..	26.05%	58 hours.	0.45%
	Confed. ( 76,727) ..	29.8%		0.51%
Seven Pines .....	Federal ( 38,000) ..	14.0%	23 "	0.6%
	Confed. ( 50,000) ..	16.0%		0.69%
Spottsylvania ....	Federal (118,000) ..	15.5%	60 "	0.25%
	Confed. ( 91,000) ..	9.8%		0.16%
Wilderness .....	Federal (101,895) ..	17.3%	34 "	0.50%
	Confed. ( 61,025) ..	18.0%		0.47%
Antietam .....	Federal ( 75,316) ..	16.4%	17 "	0.96%
	Confed. ( 38,120) ..	30.7%		1.8%
Chancellorsville ..	Federal ( 97,382) ..	17.7%	84 "	0.21%
	Confed. ( 57,352) ..	22.2%		0.26%
Chickamauga ....	Federal (58,222) ..	27.7%	38 "	0.73%
	Confed. ( 66,326) ..	24.8%		0.65%
Fredericksburg ...	Federal (113,987) ..	11.1%	16 "	0.7%
	Confed. ( 72,497) ..	7.3%		0.46%
Manassas .....	Federal ( 75,696) ..	19.1%	64 "	0.3%
	Confed. ( 48,527) ..	18.8%		0.29%
Second Bull Run ..	Federal (40,000) ..	19.5%	10 "	1.95%
	Confed. ( 65,000) ..	6.0%		0.6%
Shiloh .....	Federal (62,682) ..	20.8%	41 "	0.5%
	Confed. (40,335) ..	26.5%		0.64%
Stone River ....	Federal (41,400) ..	32.0%	60 "	0.53%
	Confed. (34,732) ..	26.5%		0.44%
Petersburg .....	Federal (63,209) ..	18.0%	60 "	0.3%
(Assault)	Confed. ( 18,576) ..	2		

WAR OF 1866.<sup>2</sup>

Königgratz .....	Austrian .....	11.0%	11 hours.	1.0%
	Prussians .....	33.0%		

WAR OF 1870-71.<sup>3</sup>

Wörth .....	French .....	16.0%	8 hours.	2.0%
	Prussians .....	12.0%		1.5%
Vionville .....	French .....	9.0%	10 "	0.9%
	Prussians .....	22.0%		2.2%
Gravelotte .....	French .....	5.4%	9 "	0.6%
	Prussians .....	9.9%		1.1%
Sedan .....	French .....	19.4%	12 "	1.6%
	Prussians .....	6.0%		0.5%
Beaune-la-Rolande	French .....	4.8%	8 "	0.6%
	Prussians .....	2.0%		0.25%
Orleans .....	French .....	3.2%	20 "	0.16%
	Prussians .....	18.0%		0.9%
Belfort .....	French .....	3.6%	36 "	0.1%
	Prussians .....	5.8%		0.16%

<sup>2</sup> No record of losses.<sup>3</sup> Col. Maude.

WAR OF 1877.<sup>4</sup>

Battle.	Forces Engaged.	Percentage of loss.	Duration of battle.	Percentage of loss per hour.
Plevna:				
First Battle ....	Turks .....	18.0%	4 hours.	4.5%
	Russians .....	28.0%		7.0%
Second Battle ..	Turks .....	19.0%	10 "	1.9%
	Russians .....	22.0%		2.2%
Third Battle ...	Turks .....	12.0%	60 "	0.2%
	Russians .....	18.0%		0.3%

ENGLISH BOER WAR.<sup>4</sup>

Modder River ....	British .....	7.0%	10 hours.	0.7%
	Boers .....	unknown		.....
Magersfontein ....	British .....	7.0%	10 "	0.7%
	Boers .....	unknown		.....
Colenso .....	British .....	6.0%	6 "	1.0%
	Boers .....	unknown		.....

RUSSO-JAPANESE WAR.

Battle.	Forces Engaged.	Percentage of loss.	Duration of Battle.	Remarks.
Yalu .....	Russian ( 20,000) Japanese ( 45,000)	11.9 % 2.3 %	5 hours.	(With intermission of 3 hrs. after 1st 2 hrs. of battle.)
Nanshan ....	Russian ( 10,000) Japanese ( 45,000)	8.3 % 9.3 %	13.5 "	(One division had been fighting intermittingly during preceding night, capturing Kinchow.)
Telissu .....	Russian ( 30,000) Japanese ( 45,000)	16.0 % 2.58%	10 "	(Advance guard action the preceding day of about 2 hrs. duration.)
Kaiping .....	Russian ( 25,000) Japanese ( 60,000)	0.8 % 0.25%	.....	(Intermittent skirmishing through 3 days.)
Fenshuiling ..	Russian ( 5,000) Japanese ( 18,000)	4.0 % 0.4 %	30.5 "	(Fighting intermittent and by different columns on different portions of field.)

<sup>4</sup>Col. Maude.

Battle.	Forces Engaged.	Percentage of loss.	Duration of Battle.	Remarks.
Motieling ....	Russian ( 15,000)	6.6 %	11 "	
	Japanese ( 20,000)	1.4 %		
Hsioyen .....	Russian ( 8,000)	6.2 %	15 "	(Advance guard action on preceding day of about 4 hrs. duration.)
	Japanese ( 18,000)	2.9 %		
Tashihchiao ..	Russian ( 40,000)	1.6 %	22 "	(Battle kept up during night.)
	Japanese ( 60,000)	1.7 %		
Tomucheng ..	Russian ( 30,000)	3.4 %	14 "	(Some preliminary skirmishing the preceding day.)
	Japanese ( 30,000)	2.8 %		
Yashulintz {	Russian ( 40,000)	5.0 %	14 "	
Yangtsuling {	Japanese ( 45,000)	2.0 %		
Liaoyang ....	Russian (100,000)	5.4 %	10 days.	(Fighting on some part of the field nearly every night.)
	Japanese (170,000)	6.49 %	10 hours.	
Sha River ...	Russian (180,000)	16.35 %	11.5 days	(Fighting on some part of the field nearly every night.)
	Japanese (175,000)	5.8 %		
Sandepu ....	Russian ( 65,000)	23.0 %	4 "	(Very fierce fighting on night of last day, also minor night fights.)
	Japanese ( 50,000)	14.0 %		
Port Arthur .	Russian ( 45,000)	33.33 %	.....	(Siege, about seven months.)
	Japanese (106,000)	42.6 %		
Mukden .....	Russian (400,000 about)	25.0 %	About 10 days.	(Including about 4 days' rear guard fighting.)
	Japanese (500,000 about)	12.0 %		

In the twelve principal battles of the Seven Years' War the average losses were,—victors 14 per cent., defeated 19 per cent. At Zorndorf the Prussians lost 33.8 per cent. and the Russians 42.9 per cent. At Kunersdorf the Prussians lost 43.4 per cent.

During the Napoleonic epoch an average of twenty-two battles gives victors 12 per cent. loss, defeated 19 per cent. At Aspern the French lost 46.8 per cent.

The average loss in four principal battles in the Crimea was for the victors 10 per cent., for the defeated 17 per cent. At Inkermann, the Russians lost 24 per cent.

The average of four principal actions in the Franco-Austrian War of 1859, gives for the victors 8 per cent. loss, for the defeated 8.5 per cent.

In twelve principal battles of the Civil War the losses of the

Union army amounted to 19.7 per cent. and of the Confederate armies to 19.6 per cent.

The average of six principal actions in the Austro-Prussian War of 1866 gives for the victors 7 per cent., for the defeated 9 per cent.

The average of eight principal actions of the first period of the Franco-Prussian War of 1870 gives for the victors 10 per cent., for the defeated 9 per cent. The heaviest loss in any one case was for the Prussians, 22.4 per cent. The average of three principal actions in the second period of the Franco-German War gives for the victors 2.5 per cent., for the defeated 3.5 per cent.

In fourteen battles in the present Russo-Japanese War (excluding the siege of Port Arthur) the average loss was for the Russians 9.5 per cent., for the Japanese 4.6 per cent. The heaviest loss in any one single battle was for the Russians at Mukden, 25 per cent., for the Japanese at Sandepu, 14 per cent.

An examination of the figures shows conclusively that the law deduced from the statistics of past wars and battles still holds true for the war now raging in the East. They show a steady tendency to decrease in the battle and still more in the hourly percentage of loss; so much so, that this total battle loss percentage in some of the more important battles in the present Russo-Japanese War, is less than the hourly loss in many previous battles since the general introduction of fire-arms. Where there is a temporary departure from the rule, it is to be explained by causes which in most cases are obvious. They show, together with this decrease in percentage of loss, a constantly increasing concentration of energy in the battlefield as represented by an increasing number of combatants engaged. Along with this they show the tendency of battles between these increasing numbers of combatants to increase in duration, lasting for days where they formerly lasted for hours, and all these changes are shown to go on *pari passu* with increased perfection in the weapons employed.

Now let us examine some of the interesting and instructive conclusions from the available data and upon which is based the law of tendency to decrease in losses. Just as the expert geologist, having before him a map which shows only the details of water courses, can read at a glance the general character of the country,—whether it is mountainous, hilly or plain, whether it is wooded or bare,

whether it is subject to rainy or dry seasons, and the geological nature of the soil; so the skilled analyst of these figures of losses in battle may read in them much of the history of these battles and of the wars of which they were incidents,—some idea of the relative numbers of the combatants engaged, the perfection of their fire-arms, the length of the combat, whether they were battles in open ground or whether one side was protected by intrenchments, the relative intensity of patriotism or other feeling which inspired the combat, and in some cases may even make an intelligent guess at the nationalities of the opposing armies.

(1) First, we note in connection with the tendency to diminished percentage of loss, the gradual disappearance of the individual duel element. Admitting that we have no accurate knowledge of the losses in ancient battles, we must nevertheless agree that these losses were relatively enormous unless we assume an inconceivable universal conspiracy among historians of all nations and ages to conceal the truth. Skill in generalship and dexterity on the part of the individual soldier being approximately equal, these great losses are to be explained as the result of two very evident causes. When bodies of men armed with missile weapons of short range, ultimately resorting to hand weapons, approach each other, the combat soon resolves itself into a *mélee* and a series of individual duels. In such a combat it is almost certain that at least one of each two duelists will be disabled. I have already pointed out that in a struggle of two bodies of men the fact which causes one side to yield is the moral effect upon uninjured men by the contemplation of the casualties about them; but when a combat of large bodies is really an aggregation of duels of individuals, the combatants have little opportunity to observe the casualties and the moral depression which precedes defeat is the longer delayed. In a duel the moral depression which either combatant feels results from the injury which he himself receives and not from the contemplation of that produced on others. When at length this moral depression permeates one or the other of these bodies of men in its entirety, it is about as dangerous to retreat as to continue the fight. There is little more than the difference between being struck in the front or in the back. There can be no doubt, therefore, that the great losses in ancient battles were due to a combination of these two causes, first, the intensity of feeling aroused in the individual in hand-to-hand com-

bat, and second, the inability of either side in retreating to withdraw itself immediately from the destructive action of its opponent. Ancient battles were singularly devoid of key points in the modern sense of the word, where the greatest energy of attack and defense was concentrated and of the struggle at which a large part of the army was merely a spectator. They were, rather, an exhibition of pure brute force between individuals composing, in the aggregate, large bodies. No man played his part properly unless he made a hit upon the body of an antagonist; whereas, in a modern battle it requires the combined efforts of many men through a long day's fight to make a hit upon the body of one antagonist. Such were the battles of Hannibal, Alexander and Cæsar. There can be no doubt that, other things being equal, to that intensity of feeling engendered by personal encounter, combined with inability to quickly and safely withdraw from the immediate presence of a superior antagonist, was due the fact that in the battles of former ages men endured a loss greatly in excess of the normal average that troops in that age would have willingly endured, or will now endure, provided the character of their weapon be, as it really is, such as to weaken the nerve rather than excite the individual passions and at the same time to permit a ready withdrawal from a superior foe. There have been, and will be on all modern battlefields, points where there is a tendency to revive the ancient conditions, and these are the points where closest contact of the opposing forces is obtained, where the element of the duel comes into play, where the intense temporary passion of the combatants maintains for the longest time the mental exaltation which counteracts physical depression, where it is as dangerous to retreat as to stand fast or even advance,—and it is at these points, you will observe, that the greatest loss is still habitually suffered.

Now, to whatever extent is valid this explanation of abnormal loss as due to the existence of the personal duel element, we should expect a further demonstration of it as the individual duel element disappears with perfection in range and accuracy of the weapons employed. You will note, however, that when we go back to the Seven Years' War in the time of Frederick the Great, this element had by no means disappeared. The infantry fire-arm was what was familiarly known as the "Queen Bess" model. It was a long, heavy, smooth-bore, flint-lock musket. Troops of all nations were

armed with it. The caliber varied with the different nations with the object of preventing an enemy using his own ammunition in captured muskets, or using captured ammunition in his own muskets. In those days parallel lines of infantry of four, three and two ranks,—that is to say with the density of from 10,000 to 5,000 men per mile,—approached each other to a range of twenty yards before firing. At that range a bullet was just as dangerous as one from the most perfect modern rifle. At that range, moreover, it was only a matter of a second or two to come to a hand-to-hand combat, when the old element of the duel was completely revived.

The principal military fire-arm continued of this general character, with the eventual substitution of the percussion cap for the flint-lock, until the war of 1859 between France and Austria, when for the first time we find great powers using the muzzle-loading rifle. It was with this arm that for the most part our Civil War was fought. In the Austro-Prussian War of 1866, the Austrians were armed with the muzzle-loader, while the Prussians were armed with the breech-loader—the old needle gun—which they had used in the Danish War of 1864. There was little difference in the effectiveness of these arms at that time, the principal advantage of the breech-loader consisting in convenience in loading. Both sides in the Franco-Prussian War of 1870-71 were armed with the relatively defective breech-loader of that day. The Russo-Turkish War of 1877 found the two armies armed with a vastly improved breech-loader, while the Spanish-American War of 1898, the English-Boer War in South Africa and the present war in Manchuria, found both sides with the high-power, small-caliber, magazine breech-loader in its present perfect form. With all these improvements the range at which troops habitually fight gradually increased and the individual duel element gradually disappeared, until we find a curious revival of it brought about, strange to say, by the very perfection of the weapon, in the night combats which have been one of the strange features of the present war between Russia and Japan. In spite of this revival and for reasons to be given, the general law of decrease in percentage of loss accompanying perfection of fire-arms holds true. To sum up what has been said in regard to this individual element, you will observe that the principal difference in this respect between an ancient and a modern battle is that, whereas in the ancient one the death grapple extended



from end to end of the line, in a modern one large parts of the two armies are simply sparring with each other, endeavoring to hold each other fast, while the whole intensity of the struggle is concentrated at perhaps one point.

(2) The second instructive point to note is that with the tendency of decrease in percentage of loss there is a tendency to increasing concentration of energy on the battlefield as represented by increased numbers of combatants, and the strange fact is that this increase in concentration of energy is itself one of the causes of decrease in loss. You will be better prepared to understand this if you will keep in mind that strategy, grand and minor tactics,—now and at all times have been alike in basic principle,—they are merely the application of the laws of mechanics to the theatre of war and the battlefield. They all consist in the determination of the amount of a given power and the application of it at a certain point to perform a certain work in overcoming a calculated resistance. With every machine there is one principal point of application of the power, although at others much work both useful and useless may be done. It is at this point that the principal resistance is encountered, that the most friction and heat are developed, where the machine is most wracked and most rapidly wears away. So in a battle, there may be an exhibition of more or less destructive energy over miles of front while the real work is being done perhaps along a line of one hundred yards. It is here that the application of power results in the greatest waste of material. It is this concentration of destructive energy within a small space which seems so appalling and the mental effect of which, as we read of it, we instinctively but incorrectly extend over unduly wide limits. In fact the correct impression of the relative intensity of any modern war is given only as you keep in mind the relative concentration or dispersion of energy. Let us take, for illustration, a time in our Civil War when the front line, the actual fighting line of the Federals extended from the shore of the Chesapeake through Virginia, West Virginia, Kentucky and Tennessee to the mouth of the Mississippi, confronted along the entire line by the Confederate armies. You know what armies these were, the bloody battles they fought through a whole year's campaign and what losses they suffered, but you cannot gather within the limits of your mind at one time the impression as one whole produced by this dispersed battle-energy.

Now imagine some power to press in the flanks of these two vast lines towards the centre until both are concentrated along a line of some ninety miles in length, and the energy thus concentrated would still be less than that represented by the opposing Russian and Japanese armies at the recent battle of Mukden. But suppose the concentrated energy at the battle of Mukden to be the same as the sum of the dispersed energies on that long line of Federals and Confederates. You will ask why should not the concentrated loss be at least equal to the sum of the dispersed losses? The first reason is this,—another will be given in its proper place. If two opposing bodies of half a million men each be each divided into five separate and distinct armies of 100,000 men each and these fight five separate battles, there are at least five separate key points to be defended and captured and on the defense or capture of which everything depends. Now an army of 100,000 can and will bring as many men for useful work in the defense or capture of such a point as an army of a million men can do. On the other hand, if each five of these armies be concentrated into one it is still probable that there will be only one key point and the total energy concentrated at it cannot possibly be greater than if the armies were very much smaller.

Thus in the battle of Zorndorf fought against the Russians by Frederick the Great in the Seven Years' War, the losses were respectively 33.8 per cent. and 42.7 per cent. out of 37,000 and 50,000 men engaged on the two sides.

Through the Napoleonic wars, our Civil War, the Franco-Prussian War, the tendency has been to concentrate increasing numbers of men upon the decisive battlefields of a war with diminishing percentage of loss until we come to the recent battle of Mukden in which the victorious Japanese lost 12 per cent., and the percentage of loss of the defeated Russians was less than that suffered by one side or the other in numerous battles of our Civil War.

Again, this concentration of energy results in a less percentage of the total death loss in a given war. The one important respect in which the Civil War in America differs from all others in modern times is the wide dispersion of energy over an enormous theatre. In other wars each nation has combined all its power in one army operating on one line against one hostile army. The culminating decisive defeat for either ends the war. The law of mechanics holds true in such a case, the concentration of power is accompanied by the

minimum waste of material. In the Crimean War the allied armies lost 3.2 per cent. in killed and died of wounds; in the war of 1866 the Austrian army lost 2.6 per cent.; in the Franco-Prussian War of 1870-71 the Germans lost 3.1 per cent. All of these wars represent concentrated energy; in the American Civil War which represented dispersion, the Union armies lost 4.7 per cent. in killed and died of wounds and the Confederates lost over 9 per cent. And there is no reason to suppose that the present Russo-Japanese War will show a departure from the law.

Still keeping in mind the analogy between a body of men in battle and a machine performing work, and remembering that the power is applied in either case on a relatively small area, you would expect the percentage of loss in battle to be great in proportion—within reasonable limits—to the smallness of the organization. Statistics support this and it is a further confirmation of the law of which we have been speaking. In the Civil War there were regimental losses at critical parts of the field of between 80 and 90 per cent. and we have no reason to believe that there have been any greater losses in the war in Manchuria; the maximum loss in any brigade composed of several regiments was between 60 and 70 per cent. and the maximum loss in a division of several brigades was between 50 and 60 per cent.

Finally, this dispersion of energy and its attendant results is illustrated by the fact that in our Civil War there were 112 battles, properly so-called, and 1,882 battles and large and small engagements, while in the present war in Manchuria there have been only fourteen engagements—excluding the siege of Port Arthur—important enough to receive a name.

All of this has an important bearing in the interest of humanity. In a struggle between two nations one or the other yields for the same reason that one of two armies on a battlefield yields,—from the moral depression produced by the physical evidences of loss. This depression is the greater when all these physical evidences are centered at one spot which theretofore was also the one center of hope. We sometimes speak of the battle of Gettysburg as a decisive one, but it was not decisive in the sense that we here mean. There were too many other centers of hope, and the depression of defeat at one place was counteracted by temporary success at another. So in the present war the dispersion of energy on sea and land un-

doubtedly operates to delay the result. The depression following Mukden is partly offset by the hopes centered in the fleet.

(3) There is another reason why, in advance of more accurate statistics, we have a right to assume that the present war in Manchuria will show a great decrease of death loss from wounds received in a battle. When you read the figures giving the number of casualties in any battle in past times, you know that they represent a certain proportion; for every man killed or who dies of wounds within twenty-four hours after they are received, there are four or five or even more of these reported only wounded. Of the men who receive what were mortal wounds in the past and of those less severely wounded, a constantly increasing proportion recover. The old small-arm projectile made great ragged wounds. They killed in many cases by shock. The soldier died from loss of blood, unable to apply the simplest remedies that would have saved life. The bullet of large calibre and low velocity carried infection and every wound was poisoned. The surgeon will tell you that the modern bullet is humane if such a term can be applied to such a thing. They carry no poisonous germ, they give the minimum shock and no small proportion of wounded men receive and need no other dressing of their wounds than that applied by themselves or their comrades on the firing line.

(4) In spite of all this I know that you will ask, How can it be that when men are armed with weapons that shoot farther, straighter and many more times to the minute than in former times, fewer men in 100,000 can be killed or wounded? The cause is found in the perfection of the weapon itself combined with the physical limitations of the men who use them. In Frederick the Great's army a soldier could fire two aimed shots a minute. He fired them at twenty yards range. At that range the bullet was just as fatal as now and far more certain to hit. He fired at a line of men standing shoulder to shoulder and two, three or four ranks deep. If the musket was held level every bullet found its billet in spite of the smoke. So, in those days and later we find battles where there was one wound to every five shots fired. In some of the engagements of the Franco-Prussian War 100,000 shots were fired to make one hit. As the modern weapon practically operates by fire alone, the very perfection of the arm makes it unnecessary to have the same density as formerly. Where Frederick the Great had 10,000 men

to the mile of front we now sometimes find only 500. If you have ever tried to hold the sights of a rifle upon a target the size of a man 1,000 yards away, or have realized the strain upon the eye and nerve, you will understand why it is that under modern conditions the soldier cannot fire many more, if any, really aimed shots per minute than was done by a soldier of Frederick the Great.

(5) In most of the really decisive battles of past wars, an analysis of the figures will show that a very considerable part of the loss sustained by the defeated side occurred after the defeat became evident. This was equally true up to a certain point after the individual duel element had disappeared. A curious deviation from this heretofore general rule is now becoming apparent. At the battle of Waterloo probably one mile was the greatest distance which at any moment separated the persons of the Duke of Wellington, on the one side, and of Napoleon, on the other, and this distance corresponded closely to that between the main bodies of reserves on the two sides. When one side began to yield it not infrequently happened that the larger part of its reserves had already been absorbed in the conflict. When at this moment the weight of the intact reserves of the victorious side was thrown into the scale it added further disaster to defeat. Its distance from the enemy now beginning to retreat was so short that in a few moments it could be hurled against the latter's organizations already beginning to dissolve. The retreating infantry were hurried into a state of more or less complete disorganization and were easily swept over by great masses of cavalry.

At the recent battles of Liao Yang and Mukden the opposing commanders were separated by a distance of from twenty-five to thirty miles, each of them being at least twelve or fifteen miles in rear of his own line. If the main reserve of the victorious side were as near as it could be to the point at which the opponent first began to yield, it would require them several hours of fatiguing march to reach that point. Long before this was done the enemy was able to begin a fairly orderly retreat. This is a condition which may be assumed to continue in the future and is another of the many reasons why the perfection of modern arms has shown in their enormously increased range, a decrease in the percentage of loss that would otherwise be expected.

(6) You will note that in a good many of modern battles much

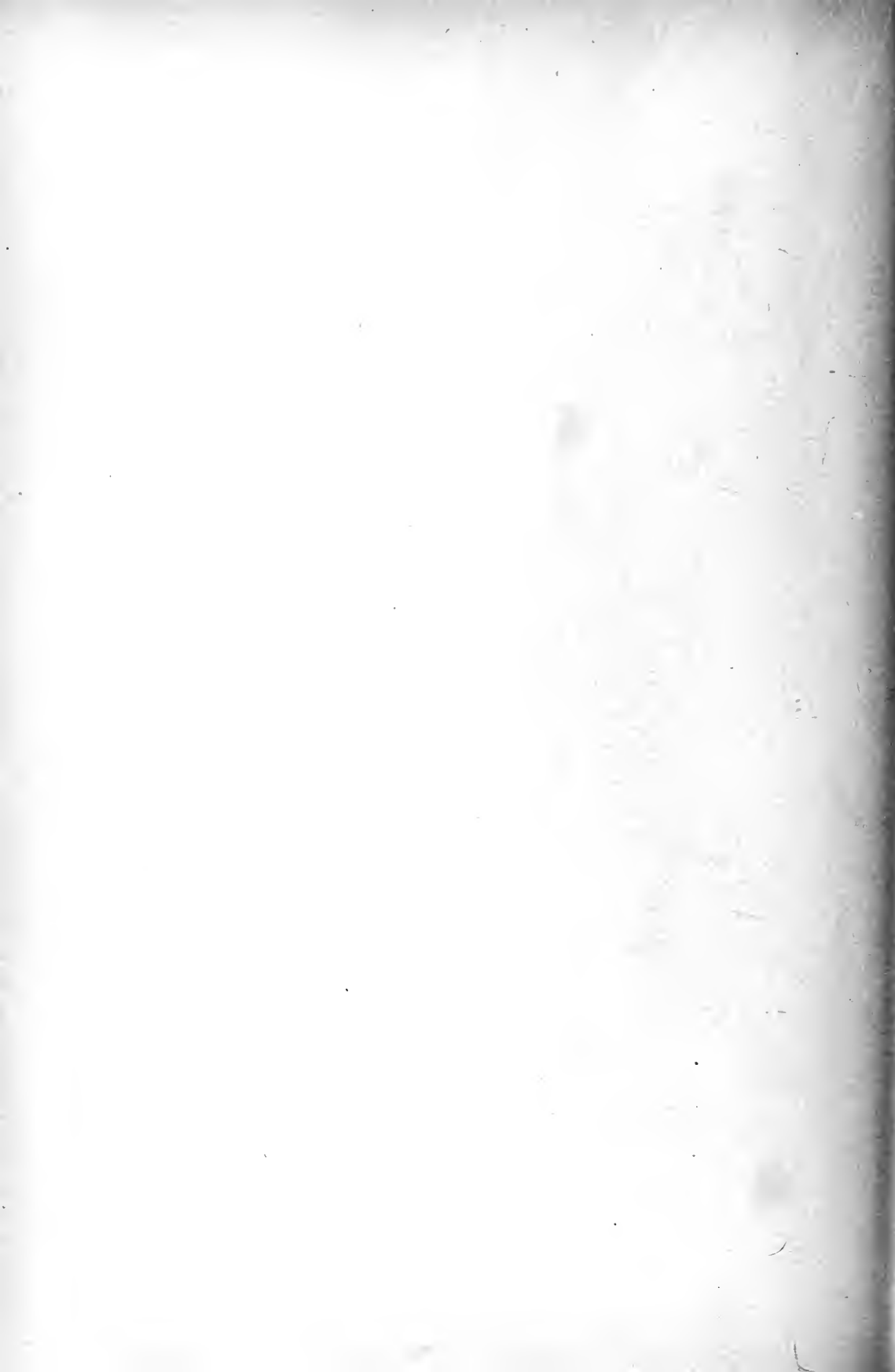
of the loss has been due, not so much to the power of the weapons as to a lack of appreciation of that power on the part of those who use them; that is to say, much of the loss was preventable. In the Franco-Prussian War each side found itself for the first time in presence of an enemy armed with the breech-loading rapid-fire rifle. Each side began the war with formation adapted to former weapons and lost accordingly. So, as that war progressed, the same results were accomplished with a decreasing percentage of casualties. In 1877 the Russians attacked the Turkish positions at Plevna in formations not much different from those employed at Borodino. At Port Arthur General Nogi's men found themselves shut out from that object of their most intense longing, which they had captured from a very different enemy in twenty-four hours ten years before. I think it safe to say that 25,000 out of the total loss in the seven months' siege of Port Arthur were uselessly lost in learning that success depends not upon the reckless bravado of the soldier, but upon the scientific adaptation by the general of the means to the end.

But it is needless to multiply explanations of the sadly obvious fact that in spite of the apparent increasing deadliness of military weapons, nations still can and will wage war. And when they do fight it is not only, as was once the case, with the best appliances of their own, but also with whatever is afforded by an alien civilization. Men who in their youth fought in body armor and with the two-hand sword and the bow and arrow, these same men are now fighting with every explosive product of the chemist's laboratory and have the telegraph, the telephone and the electric searchlight on their firing line. The rational hope of universal and eternal peace does not lie in the material products of our western Christian civilization. Nations that borrow our dynamos to light with electricity the temples of their gods also borrow our magazine rifles and high-power field guns. The peace that we hope for will come when each civilization has absorbed all that there is of essentially good and noble in the other and it will then be the peace which is born, not of fear, but of love.

# **The Important Elements in Naval Conflicts**

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**By Rear-Admiral George W. Melville, United States Navy, Retired**





## THE IMPORTANT ELEMENTS IN NAVAL CONFLICTS

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BY REAR-ADMIRAL GEORGE W. MELVILLE,  
United States Navy, Retired.

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The basic principles of strategy have been the same since armies first clashed in the field and fleets first manœuvred on the sea. The application of those principles has changed with the development of the mechanism of war; but, in essence, successful strategy is still, as in the beginning, founded upon the acme of common sense, of careful observation, of ripe judgment, and of quickness of action in the use of various appliances of war. The student of this science may learn much from its practice in the past, and in our war colleges he ought to acquire special information that will be of inestimable service in the solution of the ordinary problems of attack and defense which may confront this nation in the future. History, however, does not lack instances to show that the genius of a commander is often of greater weight in achieving results than the abstract knowledge of the science of war. The victories of Joan of Arc, of Lord Clive, and of Washington may be cited as to this. When the latter assumed command of our troops in the infancy of the republic, his war experience was limited to a comparatively brief Indian service. The application of the principles of strategy underwent a change with the commercial development of the steam engine, for almost coincidently with the invention of the locomotive and the screw propeller, there came increased facilities for rapidly transporting men and material. As expressed by one of the greatest of the world's strategists, Von Moltke, the marked advance in the conduct of modern war over mediæval methods lies in the ability of the commander of our day to move large bodies of troops and supplies in a more expeditious and efficient manner.

### *The Marching of Mediæval and Modern Armies.*

Probably no more impressive way of illustrating the difference in moving mediæval and modern armies could be shown, than by

comparing the marches of the Tartars who invaded Eastern Europe at intervals with the present campaign of the Japanese in Manchuria.

The great hordes which started from the border lands of Mongolia and Manchuria were a long time in assembling, but were always self-supporting, ever increasing in numbers, and continually looking ahead for future sources of supplies. Oyama's army, on the other hand, was more rapidly assembled, owing to existing methods of transportation; but ever since his forces landed, and although immense quantities of stores have been captured, we find the resources of Japan taxed to keep his soldiers on the march. The opposing armies have been compelled to keep in close touch with railroad communication, otherwise, inevitable starvation might have awaited the force that attempted to operate independently of a railroad base.

#### *The Cost of Modern Armies and Navies.*

Probably one of the most striking ways of showing the cost of maintaining modern military establishments is to analyze our expenditure for the support of the army as compared with the outlay for other purposes. The average cost throughout the country of educating each pupil in the public schools will approximate about fifty dollars, while the direct and indirect expense annually resulting from the enlistment of a soldier will exceed one thousand dollars. The cost of equipping, housing and transporting the modern soldier, combined with various subsidiary expenses, causes his pay to be but a fraction of the outlay required for his support. The annual expenditure, including the cost of fortification, incurred by the War Department during the past eight years, has averaged over one hundred and twenty-five million dollars. When the fortifications now planned are finished, the additional expense of manning them will bring the annual war expenditure to an amount exceeding one hundred million dollars. The forts that are building will have to be manned, for there are but few appliances which, if neglected, will become impaired more quickly than a modern weapon of war.

If anything, the navy is a more expensive institution than the army. Dividing the total naval expenditure by the number of men in the organization, we find that it is now costing the government about two thousand dollars annually per sailor employed. The navy

is insatiable in its call for supplies, and the demand for repairs and new construction never ceases. The cost of maintaining naval establishments has increased to such an extent that, at the present time, all but six nations have ceased struggling for even a place in the race for supremacy. Our annual expenditure for the past eight years has averaged seventy-three million dollars, and our Naval Board of Construction has officially reported, that, from henceforth, the cost of maintenance alone will be about seventy-six million dollars. Including all warships authorized, the cost of our fighting fleet will approximate three hundred and twenty million dollars. It will require an expenditure of sixteen million dollars to overcome depreciation, and that this estimate of 5 per cent for depreciation is an exceedingly conservative one, is shown by the fact that the British admiralty now regard over one hundred warships of various kinds, some of them only a dozen years old, and completed at a cost of over one hundred and twenty five million dollars, as practically unserviceable, from a military standpoint, for modern naval requirements. It will thus be seen that when the warships now authorized are in commission, an annual naval expenditure of one hundred million dollars will be required to overcome unavoidable depreciation, and to secure a net increase of strength equivalent to the fighting value of a single battleship.

*War is Now a Business, Whose Success Depends, in Great Part,  
Upon the Efficiency and Development of Mechanical Forces.*

Naval war is now a business as much as a science. Bullion and brain count as well as bullets and brawn. The spade serves with the sword. The soldier as well as the sailor is most efficient when he possesses a better knowledge of mechanical appliances than of perfunctory drills. The extraordinary cost of carrying on modern military operations at present points to the fact that business methods should be fully recognized in the organization and conduct of the military-naval departments.

One of the basic elements in naval policy should be a recognition of the fact that there are but three nations either wealthy enough or possessing sufficient naval strength to retain colonial possessions that are thousands of miles distant from the home land, unless the colonists or inhabitants themselves are able and willing to help the mother country in time of war.

Until the past few years Great Britain attempted to maintain on every naval station a stronger fleet than could be maintained by any possible rival in the same waters. In pursuance of this policy, her naval expenditures progressively increased until they reached, last year, the sum of one hundred and eighty-five million dollars. That empire has now called a halt in naval expenditures, for the admiralty estimates for the coming year show a reduction of about fifteen million dollars compared with the previous year.

*The Modern Warship Cannot Operate Far From a Great Repair Base.*

The battleship which can draw upon the resources of a completely equipped manufacturing and military base, is at an enormous advantage as compared with a similar vessel that attempts to be, in great part, self-supporting. When the United States declared war against Spain, the naval strength of the two powers was about the same, so far as graphic charts and official statistics could show. When the fleets met at Santiago, less than three months afterwards, the squadron of Spain had become so weakened, owing to its vessels being unable to secure a sufficiency of coal, ammunition and supplies, that some foreign experts assert that the relative strength of the two fleets was about six to one in our favor.

The showing that can be made by data as to ships and guns, as a measure of relative strength, is more apparent than real. It is not necessary to doubt that the vessels of all nations are of the tonnage that they are claimed to be, nor need it be denied that practically all vessels lately constructed possess the highest class of armor and armament. All ships, however, are not maintained in equally good condition. The stress of war will soon impair the condition of these vessels unless there is an ample reserve of men, money and supplies of various kinds to maintain them in a state of efficiency. The average modern battleship has only to take part in a few months manœuvres to necessitate her seeking a naval base for overhauling.

In brief, the individual battleship is the most powerful weapon for home defense, but unless maintained continually at high efficiency, is unreliable for distant military operations. The Russians have found this out, to their sorrow, for while Port Arthur was a

great military fortress, it possessed an insignificant, as well as inefficient, equipment of machine tools, for making necessary and rapid repairs to the machinery, hull and armament of vessels in service.

*The Tendency of the Nation to Inquire More Rigidly as to Naval Administration.*

For over a generation, the navy has had an exceedingly strong hold upon the affection and love of our people, but a cursory reading of the debate in the Congress upon the naval appropriation bill for the year 1905-06 ought to show that the pendulum of sentiment is now commencing to move in the other direction. The trend of this sentiment is probably best reflected in the remarks of one of the ablest men in public life—a man, who by birth and environment ought to be a friend of the navy. Yet, this student of naval affairs, in a very thoughtful analysis of the effect of naval increase used as a text for calling a halt in excessive naval expenditures the following quotation: “For which of you intending to build a tower sitteth not down first and counteth the cost whether he have sufficient to finish it?” The navy should heed this warning, that hereafter the estimates for naval increase will be critically analyzed. It can also take unto itself the responsibility for this change of heart upon the part of a large body of thinking men as to whether the nation’s best interest is promoted by rapidly forging ahead in relative naval strength. There should, likewise, be an end to the effort to attach any mystery to the purpose of a modern fleet, and there should be fewer hysterical statements as to the weakness of our naval organization as compared with the strength of other individual powers.

*The Vacillating Opinions of Naval Experts.*

In the bitter strife and feverish haste of rival powers to lead in relative naval strength, the technical experts of all nations have too often adopted untried appliances, and as a result many innovations have had to be discarded after comparatively short trial. Even less than three years ago, there was an urgent call from many leading naval experts for the building of second-class or small-sized battleships, despite the fact that the trend of construction was towards fighting ships of greatly increased displacement. The tor-

pedo boat had been barely built before there was a call for the larger destroyer, followed by the demand for the torpedo gunboat; and although the several naval powers to-day possess one or two thousand torpedo boats and destroyers, the British experts find that some new type of coastal craft is necessary. As for the character and arrangement of the main and secondary batteries of the battleship, a new design comes forth with each succeeding year. Experts have now discovered the fact that the modern battleship is fitted with torpedoes that are too small in size, and which should be loaded through the side rather than through the end of the launching tube. Concerning the design and endurance of the different types of submarine boats, all knowledge of this special matter seems to have been monopolized by a favored few. It was maintained that we had revolutionized the design of the battleship in mounting the main battery in superposed turrets, but neither our own experience nor the investigation of others has caused any more fighting ships to be fitted with such structures. For several years, experts fitted on our cruisers and gunboats a sponson wherever they could place one, but the value of such an overhang seems to have been more theoretical than real. The several navies have built all sorts of nondescript craft, such as dynamite cruisers, armored rams, circular iron clads and other freak boats, nearly all of which have reached the junk heap. There has been built, even during the past few years, sailing ships for the practical training of apprentices, although the entire active service of these apprentices will probably be spent in vessels which possess neither sail nor spar, keel nor truck.

*The Navy Must be Primarily the Principal Arm of National Defense.*

The public as well as the Congress, now recognize the fact that the defense of the United States must primarily be entrusted to the navy. Unless a possible foe had some hope of securing command of the sea against the strongest opposing fleet that we could assemble, no nation would undertake the task of fitting out a possible armada to attempt either the blockade or the invasion of our coast.

The war with Spain manifested rather than developed our ability to defend our coast against the strongest of naval powers.

Now that exultation is giving way to thoughtful reflection, it becomes apparent that, strong as we are for defensive purposes, we are weaker than we realize for conducting distant military-naval operations. This weakness is due to the fact that every navy requires an auxiliary merchant marine of several times its tonnage to keep the fighting ships either ready for battle or for the maintenance of an efficient blockade.

*Our Industrial Wealth and Resources Have Brought Upon us Responsibilities.*

From henceforth, we cannot evade the responsibility that attends our position as a great industrial nation seeking a fair portion of the trade of the world. As we have taken it unto ourselves to assert doctrines that affect others, there will come occasions when our military-naval strength may be the only factor that will cause other nations to accept our interpretation of policies that concern them as well as ourselves.

Our influence as a world power resulted from our industrial, agricultural and mineral wealth, and not by reason of military development. Our possibilities were recognized abroad from the time we took the lead in the manufacture of steel and perfected transportation facilities to a degree that made it possible for us to handle and carry a ton of material by rail in a more expeditious, safer and cheaper manner than could be done by any industrial competitor. We had only to break away from our economic isolation to make the world realize that our industrial and political influence was not to be limited to the bounds of our own territory.

*Foreign Estimate of Our Naval Strength.*

It was my privilege, about a year ago, while spending several months in Europe in studying the trend of naval engineering development, to confer, upon the question of sea power, with some of the ablest administrative officials of Great Britain and the Continent. In reviewing the events and results of the Spanish-American War, these experts were in accord in stating that what impressed them most, as regards the military power of America, was the amazing wealth of agricultural, mineral, manufacturing,

transportation and financial resources that were at the command of this country for conducting a defensive war against even a combination of Continental powers. It was evident, also, that these administrative officials were sincere in the belief that the United States, by the acquisition of distant tropical colonial possessions, had put it within the power of future foes to change the field of possible naval conflicts to localities less advantageous to the United States than are the Atlantic Coast and the Caribbean Sea.

*Our Voluntary Assumption of Responsibilities Beyond Our Natural Boundaries is, from a Naval View-Point, a Serious Weakness.*

By force of events, and it is hoped for the benefit of civilization, we have acquired tropical colonial possessions. History shows, however, that, except in isolated cases, the Anglo-Saxon has never succeeded in successfully establishing large colonies near the line of the equator. The possession of such territory, therefore, except for the purpose of using these colonial ports as a base of operations either in the defense of our own shores, or for the protection of our commercial rights, constitutes a weakness that should cause us to weigh well every important element of naval conflict.

From the administration of President Monroe onward, the responsibilities of the United States have extended beyond our own borders and the duties thus assumed have been increased, in later years, by the acquisition of island territory and of the canal-zone at Panama. Without regard to other considerations affecting these factors of our colonial and foreign policies, it may be said, from a naval view-point, that, so long as the present status continues, there will be a progressive increase in our military and naval expenditures and a constant need of preparedness for naval war.

*The Philippines a Naval Burden.*

Invasion can only be prevented by resistance on the sea. In the event of war, therefore, with a strong naval power, our trans-Pacific possessions in the Philippine archipelago must either be guarded by a fleet strong enough to cope with any force the enemy may send against it, as well as to hold the command of the sea, or the islands must be left to their own resources and open to attack. While our neighbors in Asia are now at peace with us and



may remain so for generations to come, it is still worth while to consider the possible changes that the years might bring.

It may be pertinent to call to mind that when France seized Formosa in 1885, the European press of China and Japan made studied effort to show how closely connected were Japan, Formosa and the Philippines, and that it was but the destiny of events that this chain of islands should some day be under a single controlling power. In fact, this thought was even pleasing to many Americans living in the Far East. It needed no suggestion, however, from the European to cause any Japanese to look towards Formosa and to the isles beyond for natural territorial expansion. Japanese romance, tradition and history furnish all the inspiration necessary to convince her people that in the fullness of time the flag of the rising sun would float over the Kurile chain as well as the Philippine group. The ambition of China, likewise, may concern itself with this remarkable chain of islands, and it should not excite surprise that there is a sincere belief existing in some part of the Orient that our acquisition of these possessions is incompatible with the vested, if not the acknowledged, inheritance of the Asiatic.

Just as soon as China recognizes the fact, as Japan has done, that the business of modern war, simply requires her to subordinate the classic and philosophic teachings of Confucius and Mencius to a thorough knowledge and application of modern sciences, the world may find that there is, perhaps, a stronger power in Asia than even Dai Nippon. The Chinese are patient, faithful, quick to learn, ready to follow a brave leader, and fearless in death. As one contemplates the industrial and military possibilities of these people, it is not a visionary prophecy which foretells that the Tartar, either on his own account or under the tutelage of Japan, may become a military power of such formidable strength as to be capable of asserting her right to enact such reciprocal exclusion laws, against countries which have excluded her citizens, as her people may consider essential to the maintenance of domestic peace and to the development of her manufacturing growth. It may also be possible, that when Japan realizes that what she has secured by conquest from Russia, can only be held from China by the maintenance of a great standing army in Manchuria, she may turn her eyes southward and behold in the Philippines that which we may then be only too glad to

dispose of,—a territorial goal which her people may regard as logically within the sphere of her commercial influence.

### *The Inter-Oceanic Canal.*

Another of the problems which is of most serious concern in our naval policy is that resulting from the building of the Isthmian Canal. While this water-way is, in a purely naval sense, of the highest value to the United States in practically consolidating our Atlantic and Pacific fleets, it also imposes a heavy burden in its maintenance and defense.

The latest estimate as to the cost of an isthmian sea-level canal is about two hundred and thirty million dollars. In connection with the question of the cost of such a water-way, it may be well to remember that Trautwine, about fifty years ago, estimated the cost as about sixteen million dollars, or about 7 per cent. of the latest estimate. As the tendency of ship construction is to build longer, broader and deeper draft vessels, the necessity for providing a canal of sufficient depth for such vessels may ultimately cause the enlargement of the scope of the project, and as a result the possible cost of the completed undertaking is likely to be much in excess of the amount now estimated. The natural features of the country environing the canal are of such a character that in order to prevent the impairment or destruction of this great water-way, most of the length of the canal will have to be defended constantly. It is a conservative estimate that there will be required an additional one hundred million dollars for the building of forts and harbors of refuge, for the government of the canal-zone, in the employment of naval auxiliaries, and for the maintenance of the military force essential to the protection of the canal from those whose malice or interest would prompt them to wreck it. The Suez Canal is partly protected from willful destruction, by the desert in its vicinity, while the Panama water-way passes through the Andes, and thus the character of the country is of such nature that it would be possible for a comparatively small body of daring men, working under the direction of an engineering expert, to undo in a single night the building operation of months. It should be remembered that the Pacific end of the canal will have to be defended as well as the Atlantic entrance, and that a possible enemy might operate

from bases south of Panama. The defense of the water-way is, therefore, a problem of moment.

*Our Relation to Minor American Republics.*

One element of our foreign policy which seems likely to be a serious naval burden and also a possible factor of moment in naval war, is our relation to the minor states of the American continent. The financial and political history of some of the American republics for the last twenty years has been deplorable, and it is surprising that there has not been intervention ere this in the affairs of such of these countries as are more or less in a chronic state of revolution, and in which financial repudiation is not regarded as synonymous with commercial dishonor. The more we are forced to concern ourselves with their administration, the greater the naval and financial burdens we shall have to bear. The condition of affairs in some of these republics is so reprehensible that it should be a matter of international action to apply drastic measures to secure permanent reform, for so long as any one power attempts to regulate either their political or financial matters, the purposes and motives of the intervening party are certain to be impugned. However unselfish or disinterested may be our motive in trying to aid these small republics, the greater, at times, seems their suspicion and distrust of our action. We shall certainly have need of a strong navy if we are forced to concern ourselves with the finances of these republics, for finance is at the base of the internal mal-administration of some of these republics.

*The Magnitude of Our Responsibilities Beyond Our Own Borders.*

The civilization of the Philippines, the building of the Isthmian Canal, and the straightening out of the financial affairs of small republics whose fiscal transactions have been questionable and intolerable, will each be found a financial burden that will prove a great tax upon our resources, and a political problem that will require the highest diplomatic talent. The concurrent treatment of these three questions may yet cause us grave concern, and it is, thus, imperative, that we should give immediate consideration to those elements of naval conflict which are particularly applicable to this situation.

The efficiency of a modern navy is only dependent in part upon the number and character of its fighting ships. Eighteen months ago the navy of Russia was regarded as next to England and France in relative strength, as measured from the standpoint of fighting vessels. The weakness of both the military and naval establishments of Russia has been due to the fact that the problems of supply and maintenance to both army and fleet have been regarded as of minor importance when compared with the question of technical organization.

*The Important Elements of Naval Strength Applicable to Our Present Condition.*

The lessons of the Russo-Japanese War are plain and simple and should be taken to heart by our people. It is the concomitant features of both military and naval organizations that have been neglected by the Russians. For the next few years, therefore, it might well be in the special direction of developing the auxiliaries to a fleet and not to augmenting greatly the number of fighting ships to which we should direct our best energies. It would be a conservative policy which would provide for a progressive increase in actual fighting strength equivalent to the net gain of at least one battleship per year. The bulk of the expenditures, outside of providing for depreciation and maintenance, might well, however, be applied as follows:

1. Improvement of the channels leading to all shipbuilding plants, naval stations and maritime cities. These channels should be straightened, broadened and deepened for military as well as for commercial reasons. All impeding bars near the entrance should be removed, and the channels should likewise be so well buoyed and lighted that it would be possible at all hours and at all stages of the tide for the largest of merchant vessels and the most formidable of battleships to enter or leave port without danger of striking bottom or imperiling coast-wise and harbor navigation.

2. The building of a fleet of large fast colliers, so that in time of war the greater part of the coal required for distant naval operations would be available for shipment to the place most needed. But little reliance should be placed upon fixed coaling stations, since in time of war most of these stations might prove as much a menace

as an aid to a naval fleet. By keeping the coal afloat there would always be fuel available for immediate transportation.

3. The rehabilitation of all the navy yards to a condition whereby, in case of necessity, it would be possible to build any type of warship at any one of the first-class stations. While it is by no means particularly advisable that such construction should be undertaken by the government, the leading naval repair station should be kept in readiness for doing any kind of emergency work.

4. The enactment of a statute providing that those graduates of technological institutions, who have successfully undertaken a course of instruction satisfactory to the Navy Department and who have passed a required physical examination, shall be appointed as acting midshipmen. Such graduates after two years' service at sea in naval vessels shall have the opportunity of competing with graduates of the Naval Academy for commission in the naval service.

5. The establishment of a naval reserve, and the appropriation of an amount sufficient to send all members of such organization to sea in naval vessels for at least one month every year, and who while performing this service, to receive the same pay and emolument as officers and men of corresponding rank and grade in the navy.

6. The restoration of our merchant marine. It would be easier to write several thousand words in advocacy of subsidizing our merchant marine than to attempt to show in a brief paragraph the necessity of extending such help. I have no hesitation in asserting, that in view of our existing relative naval strength, it would subserve military, commercial and national interests to stop building battleships for a time, and devote all or a portion of the money thus saved to placing upon the ocean a merchant marine that would help us to secure a greater portion of the trade of the world, and which, in case of war, would prove a military auxiliary only one step less removed in importance than the warship itself.

7. The recognition of the fact that the modern navy is an engineering one, and that the training of both officers and men should be more technical in character. The time spent by apprentices and landsmen on sailing vessels is practically wasted.

8. The purchase, if possible, and as soon as practicable, from Denmark, France and England, of all their West India possessions,

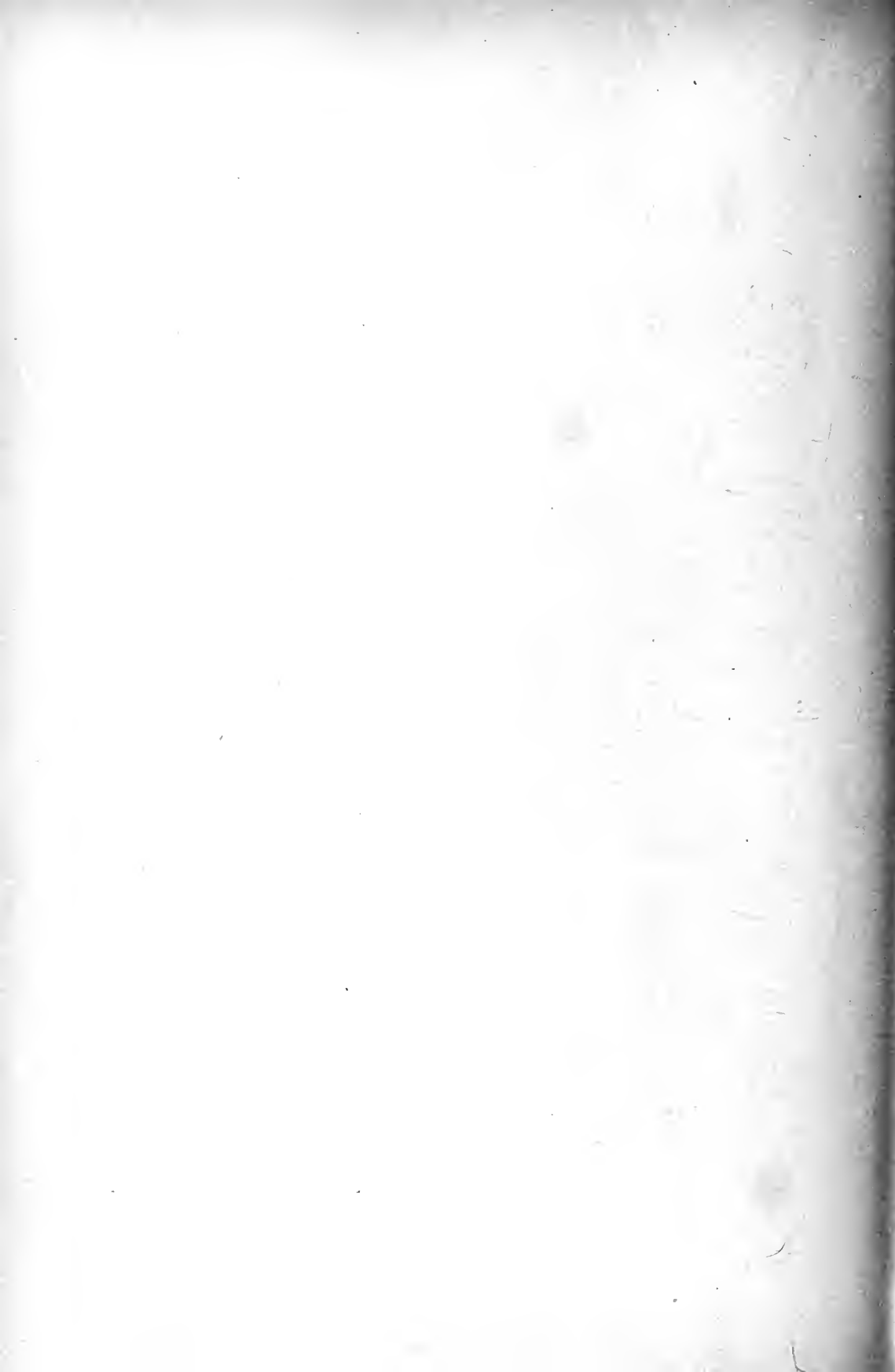
so that none of the fortresses on these islands could be maintained for use against either the Isthmian Canal or used as a base for operating against the South Atlantic and Gulf coasts. The regulation of the fiscal arrangements of some of the American republics would be exceedingly simplified if no European power held any possessions of the Western Continent, for so long as a single island in the Caribbean Sea is under the dominion of a foreign power, so long may that power consider that it possesses at least a moral and political equity in concerning itself as to the administration of neighboring islands that are in a chronic state of financial embarrassment and political revolution.

9. With the possession or the dismantling of every West India fortress which might be a menace if in the hands of an enemy, we now have either in commission or in course of construction, a navy strong enough to meet any power in the world either on the North Atlantic coast or in the Caribbean Sea. For military operations in Asia or even in certain portions of South America, vast expenditures would have to be incurred before we should be willing to stake our prestige and commercial development in accepting battle in waters so far distant from the home land.

# **The Extent to Which the Navy of the United States Should be Increased**

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**By Rear-Admiral Frederick Rodgers, United States Navy**





## THE EXTENT TO WHICH THE NAVY OF THE UNITED STATES SHOULD BE INCREASED

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BY REAR-ADMIRAL FREDERICK RODGERS,  
United States Navy

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I was unexpectedly and somewhat suddenly assigned the honor of representing the Secretary of the Navy on this occasion, and while such distinction is much appreciated by me, my only regret is that I am hardly prepared to do justice to the great and important subject assigned to me.

The necessity of a navy of some sort has been apparent ever since the birth of this country, but there have been times in its history when the navy struggled for its existence and when it even almost ceased to exist. Doubt about the importance of maintaining a considerable navy is a thing of the past. The history of the world, and particularly the history of these United States for the past seventy-five years, is sufficient to establish beyond all doubt, not only the necessity but the great importance of the maintenance of a navy, and a navy commensurate with the wealth and power of this republic, taking into consideration its relations with other great world powers.

A brief resumé of the history of the United States navy, based upon important epochs of the nation's history, may be stated as follows:

*First.*—Its provisional establishment by the Continental Congress for the Revolutionary War.

*Second.*—Its practical abolishment by the so-called peace establishment when the navy was considered by the power that then existed, no longer necessary, until the necessity for a navy became apparent with our first international troubles, which led to the Tripolitan War, resulted in its re-establishment and the hurried building of six frigates and the laying of the keel of the Constitution in 1794. In the Tripolitan War the navy of the United States made

a great record for itself. It may here be stated that in this interval the government of the United States, for the want of an adequate navy, was in the humiliating position of being obliged to buy peace with the Dey of Algiers at a cost of very nearly a million of dollars, a sum which would have been quite sufficient to have kept this barbarian's port hermetically sealed until he would have humbly sued for peace, had this blackmailing amount been expended previously in building suitable vessels of war. The result of this success on the part of Algiers was a declaration of war against the United States by the Bashaw of Tripoli. The result of the war with Tripoli was the assemblage of our greatest force off the coast of the Bashaw's dominions, five frigates, a brig, three schooners, and a dozen or more gunboats of that date. This, our earliest and most important display of sea power, was followed by the establishment of peace on our own terms, which included a ransom of \$60,000 and an agreement to never again trouble American commerce.

In this connection, General Washington said to both houses of Congress in 1798: "To an active and external commerce the protection of a naval force is indispensable. To secure respect to a national flag requires a force organized and ready to defend it from insult and aggression."

*Third.*—The War of 1812-13, when certainly the reputation of the navy of the United States and of American sailors became world wide.

*Fourth.*—The Mexican War, and then the Civil War, in succession. It is unnecessary to go into details now as regards the part performed by the navy in the successful termination of these wars as it is all a part of the country's history. Suffice it to say that it all goes to emphasize the importance of maintaining an adequate navy.

*Fifth.*—The rehabilitation of the navy and the change from what was called the old navy to the new, from wooden ships and sails, to steel hulls, high-powered engines, and correspondingly modern guns.

*Sixth.*—The Spanish War. This short and conclusive war demonstrated the importance of a navy. Fortunately we were prepared for it with modern ships and guns. Without an efficient navy no one can say what might have been the result.

Mahan, who is accepted as an established authority on sea

power, says that the "navy is the indispensable instrument by which, when emergencies arise, the nation can project its power beyond its own shore line."

From what has previously been stated it seems obvious that an adequate navy has always been indispensable, even when this country was a compact continent, with no outlying possessions and little probability of foreign entanglements. The map of the world, as well as its history, has made rapid changes possibly unanticipated during the last decade, at least.

We now find ourselves with valuable colonial possessions in the East Indies, in the West Indies, and in the Pacific Ocean; on the Isthmus of Panama building a canal; while the Monroe doctrine is being maintained more positively than ever. What do these changes involve? The most conservative observer must, I think, admit not only that a navy but a powerful one is absolutely necessary to maintain our position among the powers of the world. There is to-day a rivalry among the maritime nations of the world in the maintenance of sea power, and the building lists of each are closely scrutinized from year to year by each nation concerned. To maintain our prestige we must be equal to the best and no longer be regarded as a fifth-rate naval power.

It must be kept in mind, moreover, that all this involves, in connection with the force afloat, coaling stations, fortified bases, cable communications, colliers, supply ships and the other necessary auxiliaries of the fleet.

In all our new possessions we fortunately possess fine harbors naturally adapted for naval bases, except perhaps in Porto Rico, where this may not be important, as we have the fine harbor of Guantanamo excellently situated on the south coast of Cuba near the Mona passage.

The present war in the East, being waged possibly at the present moment in the vicinity of our own possessions, has certainly been an impressive illustration of the importance of sea power. Referring again to words of General Washington, it is apparent that a maritime nation at peace needs an adequate navy to maintain its dignity and its neutrality.

Avoidance of war by preparedness for it, is the principle that underlies the great expenditures for maintenance of a fleet. I have served through two wars and have witnessed the hurried prepara-

tions at enormous expense, the purchase of vessels illy adapted, but the best obtainable, at exorbitant prices. At the beginning of the war with Spain I was detailed by the Navy Department for the duty of purchasing auxiliaries for the fleet, and it will be remembered how quickly the emergency fund of \$50,000,000 was expended. The expense of a great war is indefinite; it may cost all that a nation has and all that its credit will permit it to borrow. To avoid such a calamity by being prepared to maintain peace involves an expenditure that is calculable and comparatively moderate, or to quote the words of the present German Emperor in a recent speech at Bremen: "After much has been done internally in a military way, the next thing must be the arming of ourselves at sea. Every German battleship is a guarantee for the peace of the world, and the less ready will be our foes to attack us, and the more valuable will we become as an ally."

Now, conceding that we should have a navy commensurate with the standing of the United States as a world power, it must be remembered that it takes at least three years to build a battleship costing \$7,000,000, and that each of these ships of the first-class requires about six hundred men so skilled and trained as to be able to use this material to the best advantage. The other and less important vessels to compose the fleet require time proportionately to the size and cost.

Much discussion has arisen regarding the value of expensive battleships as the best type of vessel for offensive and defensive purposes, but the professional opinion appears to be universal that a nation's maritime strength is measured by the number of first-class battleships that can be assembled at short notice. As an exemplification of this we hear continually the question how many battleships has this or that power, referring to the strength of the fleet, always assuming that the fleet is composed also of a proportionate number of other types, armored cruisers, destroyers, torpedo boats and the usual auxiliaries.

We come now to the great question: To what extent should the navy of the United States be increased? In general this will be governed by the policy of this government and the sentiment of the American people. At the present time every indication points to the fact that public sentiment calls for an increase of the navy to the extent that it shall be put on a fair footing with other powers.

My personal observations and conversations in various parts of the country confirm me in this belief.

It has been suggested that naval officers cannot be unbiased judges regarding the proper development of the navy, on account of their direct interest in this connection. Consequently, the general inclination now, I think, among the leading officers, is to be conservative for fear of being misunderstood and classed as alarmists.

Returning to the fact that we must be, as other great powers, guided to a great extent in our naval development by the building program of other powers, we find that statements have been made, and in the public prints, that the United States has built as many battleships during the period from 1891 to the present time as any other nation. This is entirely erroneous. We have at the present time twenty-seven battleships in commission, building and appropriated for. These have been provided since 1891. During the same period of fourteen years England has provided fifty-two battleships that are contemporary with our twenty-seven. Germany has provided twenty-four battleships of ten thousand tons and over since 1891; has reconstructed or rearmed four of these, and has reconstructed thirteen other battleships of less than ten thousand tons, or thirty-seven battleships in all; and in addition to this the German program, which is consistently pursued from year to year, provides for replacing seventeen battleships, all of less than eleven thousand tons displacement, with eighteen new ones of large tonnage by the year 1917, or, in other words, for a fleet of thirty-eight battleships. This is not all, however. The public prints bring also the intelligence that this program is to be supplemented by another that will nearly double the fighting strength of the German navy within ten years, and it is understood that the opposition to this, which was very strong at one time, has now practically disappeared.

France, which up to a few years ago made a great specialty of torpedo vessels of all descriptions, has, within the last year, come to the conclusion that she must have a powerful fleet of battleships and her program provides for large additions to the fleet in this line, the lessons of the present war in progress having fully convinced her that battleships are the bone and sinews of the navy.

Our own situation is such that we have entered upon an entirely new class of foreign relations since the Spanish War. We have started an isthmian canal; we have assumed a definite position and

policy in the West Indies; we have reiterated our endorsement of the Monroe doctrine; we have taken the Hawaiian Islands and Guam as vantage points on the great highway that our commerce will cross—the Pacific; we hold the Philippines, and must continue to hold them, whether we like it or not; we have stated that the open door policy shall exist in China; and over and above all we have home shores of enormous extent, greater than that of any other nation, whose first line of defense must always be the fleet. It is not too much, therefore, to assume that the strength of our fleet must grow in proportion to the importance of our international position. Just what that strength shall be should remain to be fixed by our best informed naval opinion, giving due consideration to the attitude of foreign governments and the growth of their navies, as well as to our own financial condition; and considering what is being done at the present time abroad, it would hardly be too much to state that our battle strength should consist of a fleet in the Atlantic sufficiently powerful to meet the strongest fleet that an enemy can send to our shores; one of moderate strength in the Pacific, and another of a little more strength in Asiatic waters. To maintain such a fleet requires a reserve, the strength of which cannot be accurately forecast, but it would possibly be about 25 per cent. of the force in commission. Now, therefore, it would seem in my individual opinion that the number should not be far from one battleship for each state.

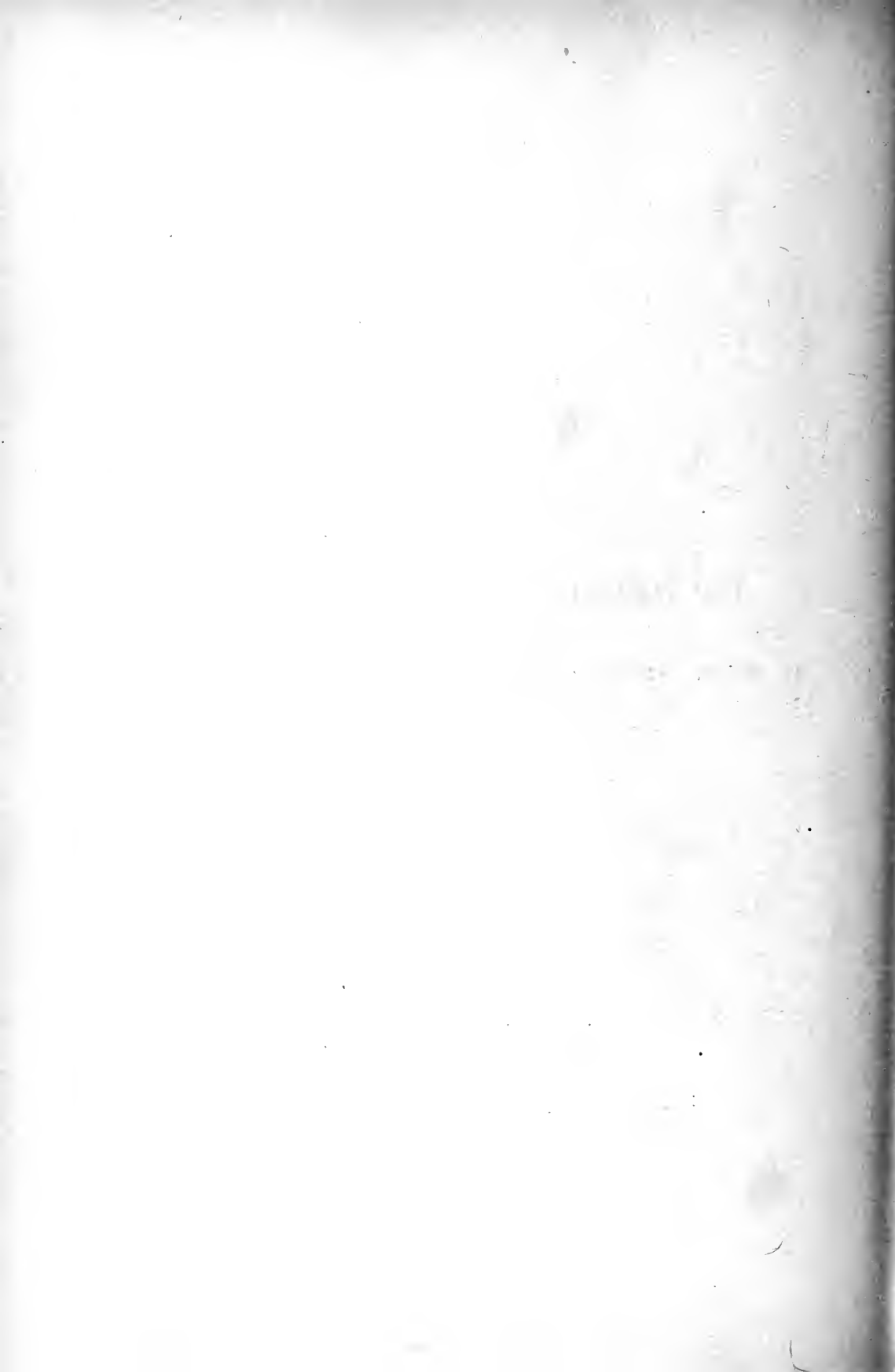
Hand in hand with the construction of the fleet should go the provision for officers and men to man them, and one of the greatest needs of the present day is the recognition of the necessity of providing the personnel when the ships are appropriated for. If this were done there would not be so much disjointed action; provision made in one year for a certain number of ships, followed by begging requests year after year from the Navy Department to Congress for the officers and men to man them; this followed again, in turn, by an awakening in Congress as to the true situation of affairs and the flooding of the Naval Academy with a large number of midshipmen. This large increase of personnel is again followed in after years by a block in promotion, due to the fact that the officers formed by these large classes are nearly of the same age, and, filling the lists from admirals down through the command grades, stagnation ensues with all its attendant dangers,—dangers that are very real.

They exist to-day and are due to the fact that officers spend the largest part of their service in the grades below command ranks, where they arrive at a late age without experience in command and with very little enthusiasm for it. Flag rank follows with usually less than two years to serve. As the result of this disjointed system of providing for the navy we find our ships commanded by officers with little or no command experience, and flag officers proceed in succession to the retired list with a few months' experience in squadron or fleet command, the chief result of which is, most often, the personal satisfaction of the flag officer that his flag has been shown and saluted.

My opportunities for a study of this subject, in view of the short notice, have been too limited to undertake a precise statement in detail. Eliminating all vessels of the experimental type and those of doubtful utility, it is my opinion that the increase of the navy should be steady and systematic; that a force of forty-five first-class battleships, twenty armored cruisers and a corresponding number of gunboats, torpedo boat destroyers and colliers and auxiliaries should be borne on the navy list with a corresponding personnel of the highest efficiency. Only a portion of this fleet need be kept actually in commission, the rest being held in reserve with a reduced complement in readiness for any emergency.

The present enlisted force of the navy is 34,000. After July 1st the authorized increase will make a total of 37,000 men. A careful estimate of the force required, recently made in the Navy Department and furnished for my information, shows that there should be at least an addition of 10 per cent. in the number allowed under training, and an allowance of 5 per cent. for men waiting assignment, or in transit and in hospital. In addition to the 53,364 required to place in commission all serviceable vessels, together with the ships to be completed June 30, 1908, an additional number of men will be required at naval stations and on board receiving ships. Our navy will require at least a total of 62,368 enlisted men. The marine corps, which has always been considered as a part of our navy and whose history speaks for itself, now consists of 7,532. After July, 1905, it will contain 8,771 men and 278 officers.

I will not undertake to present here in exact figures the increase of the force that will become necessary for the manning of the fleet proposed. This will be merely a matter of calculation based on the complements of the ships.





# The Training of the Efficient Soldier

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By William Wallace Wotherspoon, Lieutenant-Colonel, General  
Staff, United States Army



## THE TRAINING OF THE EFFICIENT SOLDIER

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BY WILLIAM WALLACE WOTHERSPOON,

Lieutenant-Colonel, General Staff, United States Army.

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As long as the conditions now existing remain unchanged, no one can seriously entertain the idea that armed forces for the protection of a nation from foreign aggression or domestic violence can be dispensed with. Until the day arrives when universal peace reigns throughout the world the spectacle of a body of male citizens withdrawn from the peaceful avocations of ordinary life and devoted to the purposes of war must be a common one, for each nation will, until that day comes, maintain such a national police force as will, in the opinion of its responsible leaders, insure respect for its interests both within and beyond its borders.

What that police force shall be, its strength, organization and equipment, depends upon many factors, but, differing as they do with each nation, the laws adopted and the methods deemed best for the purpose constitute its military policy. The military policies of nations differ widely. In some the dangers seem to the rulers so great that only the thorough training of every able-bodied man for war will meet the necessities of the case. This gives rise to a system of training by which every male citizen must pass through the ranks and thus obtain the education deemed necessary for national purposes; such a system withdraws from civil occupation a certain percentage each year of all healthy males, trains them in the arts of war and results in time in making available for national defense or offense the largest possible percentage of the total population. Other nations, not deeming such an exhaustive process necessary, reduce the requirements of compulsory service by various methods, and others again trust entirely to the patriotism and valor of their men and, requiring no compulsory service, seek to fill their ranks both in times of peace and war by offering inducements of high pay and temporary service. Needless to say the United States belongs to the latter category.

Whatever the military policy of a country may be in regard to strength and organization, and however much it may differ in these respects from all other countries, it includes in its policy a system of education and training with a view to perfecting the soldier in his duties. Each in the interests of economy seeks to so train a comparatively small body of men that they may be ready to meet an equal or even a superior force with good chances of success. Appreciating that war is sudden and the stroke is liable to be made at the most unexpected time, each strives to maintain a force in the highest possible state of efficiency, in order that it may be prepared on the outbreak of war to strike swiftly or at least resist stubbornly the onslaughts of its enemy, and thus gain time to call forth its reserves and organize its resources.

The military policy of the United States is to maintain as small a standing army as its immediate necessities may call for and to trust to hastily raised levies in time of national danger. Whether this policy arises from the intense absorption of our people in commercial pursuits, our assumed isolation and immunity from interference by other nations, or the unreasonable belief that a standing army constitutes a threat against the liberty of the people, it has resulted in the nation maintaining the smallest army, in proportion to the total population, of any first- or second-class power on the globe. We are a commercial nation and it seems strange to military men that we do not strike a balance on our war books and count the cost of a policy which is so evidently extravagant. Few of our people know how extravagant this policy has been in the past, and it may not be inappropriate here to recall two or three instances in our history which illustrate this point. General Upton in his book on the military policy of the United States, shows that in the War of the Revolution, with an unenterprising enemy, ranging in strength from 30,000 to 42,000, we enlisted a total number of 395,000 men without being able at any time to bring more than 17,000 of them against the enemy, and incurred a debt of \$370,000,000, exclusive of the pensions, or \$440,000,000 including that item. Failing to appreciate this extravagance or to heed the repeated warnings of General Washington, our country in the War of 1812 enlisted the enormous number of 527,000 men to fight a British force which originally was only 5,000 and was never greater than 16,500 regulars, and yet we were never able to bring more than 5,000 of our men against the

enemy, and practically failed in all of our undertakings, at a cost of \$245,000,000. In the Florida War we enlisted 60,600 men against a miserable, undisciplined banditti of deluded Indians and fugitive slaves, whose total strength there is reason to believe never exceeded 1,200.

How it happened that with these great numbers of men enlisted we were able to bring so few against the enemy is explained by the fact that the great majority of them were enlisted for very short terms, terms so short that they expired before the men could be trained and brought to the battlefield. The above instances in our history are cited simply as explaining why the War Department has adopted for our army the elaborate system of education and training which will be briefly explained.

The soldier, in the broad sense, includes both officers and men, and no description of the soldier in the ranks would be complete, or indeed comprehensible, without a description of the training of his officers who are his instructors. Our system of training, therefore, starts with the officers and includes the non-commissioned officers and privates down to the farriers and cooks. To meet the requirements our government has adopted and put in operation a scheme of education which is comprehensive in its scope and is, in our opinion, calculated to bring both officers and men to the highest state of efficiency in their profession.

The training of a soldier is easily divisible into two distinct systems; physical training to develop his body so that it may meet the unusual and exceptional strains of warfare, and mental training that he may apply the lessons of experience and bring to bear upon the affairs of war every resource which science can give.

### *Physical Training.*

The physical training of our soldiers is attained by such exercises as experience has shown will develop in them the powers of endurance necessary to resist the hardships and exposures incident to war, combined with constant practice in the minor problems of war to prepare them for the actual conditions which war will bring. Whilst experience has taught us that the nearer we can bring our men to that state of physical development attained by the all-round athlete, the nearer they will be to the ideally trained soldiers, there

are in the army certain peculiar and unusual requirements which are such that the training of the soldier like that of other men for special professions must follow special lines. The soldier must not only bear unusual exposure and fatigue, which indicates the necessity of maintaining the very highest state of general health, but he must be trained for the special work of the arm of the service, be it cavalry, infantry or artillery, to which he belongs; he must have strong legs to be able to march or ride long distances; his hand must be trained to manipulate his weapons, the rifle, sabre, or field gun, with the greatest speed and accuracy; his back must be strengthened to carry heavy burdens for many miles, and his eye trained to see clearly and judge accurately the ranges of objects at great distances over all sorts of ground and in all conditions of weather.

The physical training of the soldier starts with the first days of his enlistment and continues throughout his service. It has for its starting point the "setting up" drill; the course is continued by daily drills under arms, exercises on the horse, practice on the range and in estimating distances, by marches, bivouacs and exercises in the problems of war.

The setting up exercises are based upon the best methods of recognized instructors in athletics, and consist of such movements of the body, legs, arms and hands as will develop those parts, with special exercises in deep breathing to enlarge and develop the chest. These movements are made both with and without weights in the hands, more frequently without weights than with them; in each case the clothing is loosened to give freedom to the muscles, and the exercise is of short duration. The movements without weights are six in number; they are easy and graceful, put no undue strain upon the man, and tend to exercise every muscle in the body. The movements with weights are somewhat similar in character; in them the rifle held in both hands is the weight which is swung from side to side, raised above the head, lowered behind the shoulders and thrust from the chest to right, left or front in time to the cadence of music. The exercise with the rifle serves a double purpose in that it not only develops the muscles but very soon accustoms the man to the weight of his rifle so that it no longer becomes a burden to him.

If these exercises were infrequent or intermittent the results might be small, but as the men, starting from the day they join, are put through them daily, generally just after reveille, the results are

in a short time very marked; recruits whose muscles were undeveloped, or developed only in certain directions, become broad-chested, strong-backed, well-muscled men, their whole bearing changes and they are prepared to bear fatigues which would have been impossible without such development. Did the physical training stop here it would meet but part of the requirements. Continued in the daily drills, which not only develop the body of the man but insure that prompt and unquestioned obedience to orders so essential in his profession, by training in the gymnasiums which the government is providing in most of our posts, by long marches, practice in estimating distances over varied ground and by the field athletics to which one day each week is devoted and in which we encourage the men to participate, the soldier becomes, in time, an athlete and applies to his government the health, strength and clear sight he has acquired during service. In this course of physical training his officers are the instructors; they by precept and example attempt at all times to encourage the men in healthy development. What can be accomplished under the system is little known outside the army. Truly wonderful marches for infantry and rides for cavalry have been made, the history of which must be sought for in the accounts of the army's service against our western Indians and in the jungles of the Philippines.

By the process so briefly and inadequately described above we endeavor to produce a strong, healthy man fit for the purposes of war; to make him skillful in the affairs of war we, after constant practice with his weapons on the range, instruct him in such operations of war as will in all probability fall to his share. This course, however important it may be, can only briefly be touched upon. The range, accuracy and volume of modern weapons are such that only with the greatest difficulty can soldiers in the attack be brought to the point on the field of battle from which they can deliver the final assault which will bring victory. When it is stated that artillery can be so massed and infantry fire so directed that every square foot of ground within limited areas can be struck by a bullet ten times each minute, and that this is possible up to two and three miles, the difficulties of passing through such a fire-swept zone become apparent. Fortunately such a condition is rare, yet soldiers have fought in the past and will in the future fight under such conditions. To prepare them to do so and to meet the current events

of military life during war they are constantly exercised on the ground under conditions as nearly like those of actual war as can be obtained. To pass over fire-swept zones, that is to advance to the attack, the soldier must be skilled in utilizing the cover afforded by inequalities of the ground, he must be prepared to cover himself with intrenchments, and he must learn by drill how to quickly take those formations and execute those manœuvres which will bring him hand-to-hand with his enemy. This part of his education is conducted through field exercises in which tactical problems are solved, with troops or bodies of men opposed to each other. Such exercises can be varied indefinitely. They include not only methods of approaching for the attack, but methods of defense, construction of obstructions, selection and preparation of lines for defense, construction of bridges with such materials as may be at hand, building of telegraph and telephone lines, and a thousand and one things which in civil life are done by specially trained experts.

#### *Mental Training.*

As the mental training of an army depends primarily upon the training given the officers, it is deemed best to describe the part of our system which applies to officers rather than to go into details as to how this mental training is transmitted to the men, therefore, only such brief reference will be made to the schools for soldiers as will be necessary for an understanding of the breadth of the general educational scheme of our army.

For the mental training of its officers our government has provided a chain of schools of technical character in which the scope of instruction extends from preliminary instruction appropriate to all arms of the service, through special courses appropriate to each special arm, to staff instruction and ends at the war college.

At the foundation of our military instruction stands the great Military Academy at West Point where young men, drawn from civil life, spend four years of the hardest kind of study and endure a severity of discipline unknown in other institutions. Here we find the standard of efficiency upon which our government has set its seal. Though other avenues to commissioned rank have been opened by the government, the West Point standard is the one recognized standard for officers at the beginning of their service, and it is to-



ward that standard we continually look. The young man who joins the army as a commissioned officer, whether from West Point, from civil life, or from the ranks, at once finds himself confronted with an educational course, part of which he must take and part of which he may take. This course is included in the garrison schools, the special service schools, the staff college and the war college.

The garrison schools are intended to insure and test the military education of all officers in the most important branches of the profession of arms.

The special service schools afford instruction in technical matters relating to the service for which they are established.

The staff college takes selected men from other schools and prepares them for the higher command.

The war college, selecting men of marked ability from the army at large, devotes its course to the working out of military problems upon the solution of which may depend the success or failure of the nation in war.

It will be seen that the course is a progressive one. All officers must attend **and** pass successfully the course prescribed for the garrison schools. Many must attend the special service schools and from them many, with other selected officers, pass through the staff and war colleges.

Each in its own sphere is intensely practical as becomes our American trend of mind. No course in theoretical training is considered complete until the student has demonstrated his ability to apply the principles taught to actual conditions of war as nearly as they can be simulated in time of peace.

For educational purposes the year is divided into two parts; in the winter, when inclement weather at most of our posts precludes exercises in the field, the theoretical course is taken up; in the spring, summer and autumn the time is devoted to practical work in the field.

#### *Garrison Schools.*

At every post in the United States and its possessions the garrison schools open on the first day of November and continue in session until the first day of April. In these schools the field officers and captains of highest rank and greatest experience are the instructors and all officers of less than ten years' service are the pupils.

The number of subjects to be studied is so great that the course has to be spread over three years, one-third being covered each year and three hours each day being devoted to recitations. The course in each subject concludes with a written examination conducted by a board of older officers to test the student's proficiency. The questions for these examinations, in order that the test for proficiency may be uniform throughout the army, are prepared and sent out by the general staff of the army and are not left to local boards. At the conclusion of each examination all papers are carefully marked and any officer who fails to attain a mark of proficiency must, after having his failure recorded on his efficiency report, again take the subject in which he has failed.

It would take too much time to read a complete list of the subjects covered in these schools. An officer to complete his course and graduate from them must be proficient not only in the theoretical principles, as already stated, but in the practical application of those principles to the affairs of military life. For the very foundation of our system of military education is that theoretical knowledge must always be demonstrated by practice under the nearest approach possible to the conditions of war.

It will be seen that an officer in this course must take three years and in case of failure to pass in one or more subjects may take four or five years to graduate. When graduated he is expected to be proficient in the general duties of his profession and to have laid the foundation upon which to build his reputation for efficiency in the army.

#### *Special Service Schools.*

Whilst the course in the garrison schools is general, the service schools which follow next in the course of military education are, as the name indicates, schools where the officers of the different arms of the service prepare themselves in the higher studies applicable to their branches of the army. All officers cannot be spared from their ordinary duties with troops to attend these schools, hence those designated to attend them are selected from the most promising officers who have passed highest in their studies and shown greatest proficiency in the garrison schools. The instructors are carefully selected officers from the branch of the service to which the school belongs. The course occupies one year, with

daily recitations and exercises which occupy from five to eight hours each day.

There are seven such schools:

The Artillery School at Fortress Monroe, conducted for the special instruction of artillery officers.

The School of Application for Cavalry and Field Artillery at Fort Riley, Kans., for the instruction of officers in the special duties and functions of those arms.

The Infantry and Cavalry School at Fort Leavenworth, for the special training of the officers of those branches of the service.

The School of Submarine Defense at Fort Totten, N. Y., for the instruction of officers in the special duties of protecting our harbors against attack by hostile fleets.

The Army Medical School at Washington where young surgeons entering the army receive instruction in the duties of their profession as applied to war and the military service.

The Signal School at Fort Leavenworth for signal officers, where the use of balloons, the construction of military telegraph and telephone lines, wireless and submarine cable communication are taught; and finally,

The Engineer School of Application at Washington Barracks, D. C., for the special training of engineer officers.

From all these schools, excepting the torpedo and medical schools, a number of the brightest and most promising young officers are selected for the

#### *Staff College.*

At this college the student officers are in great part relieved from recitations; their work consists principally of research; the reading of military history, works upon strategy, grand tactics and logistics, and instruction is conveyed by lectures, discussions and debates between the students and the instructors and involves a broader and higher knowledge of the art or science of war than is taught in the other schools.

Capping the educational edifice of military instruction we have the Army War College, where specially selected officers of the general staff, themselves specially selected men from the army at large, conduct courses of original research touching the great military problems of the country. The details of the course need not be dwelt

upon; it is sufficient to say that the War College follows the best known methods and cannot fail in time to produce most satisfactory results.

Probably no method is calculated to give so good an idea of the importance in which that military education and training which produces the efficient soldier is held in our country as to sum up the amount of time which the War Department has assigned to it. To complete the educational course laid down an officer studies four years at West Point, three years in the garrison schools, one year in the service school of his branch, another at the staff college, and finally one, at least, at the War College, making a total of ten years. Even at the close of this course he finds he must, yearly, until he nears retirement at sixty-four years of age, solve problems in the art of war and keep himself abreast of his profession by constant reading.

We believe that the system adopted for the training of officers is equal to any, if it is not the best, in the world. Sufficient has been said of it to show that it takes a great deal of time and a great deal of study.

The time we can devote to officers is of course limited only by their active life, for in our service an officer is commissioned for life. Had we equal opportunities to educate and train our men we would have the best army in the world. Unfortunately the restless spirit of the American soldier and his desire for constant change of occupation, as well as his dislike for restraint, gives us but a short period within which to train and perfect him in his profession. Most of our men remain in service not longer than three years. Within that time the government endeavors to train him for a double purpose; first for his duties in war, and second for his return to civil life with a perfected physique and a mind cultivated with a high sense of patriotism and honor. For this the machinery is provided in the following schools for enlisted men.

#### *The Post School.*

In each post occupied by the men of our army there are maintained post schools for the exclusive benefit of the soldier. These schools are not for the purpose of imparting purely military knowledge; they are intended to afford opportunities for study in the sub-

jects taught in the public schools of the country and to make up for any deficiencies in the general secular education of the men. Attendance is not compulsory in the case of men already well taught; indeed only those men whose education has been neglected and who are markedly deficient are compelled to go to them for instruction. Such men are few in number in our service as certain educational qualifications are required before enlistment, and as a rule only men of quite fair education are taken in. Hence the services of teachers in the post schools are required for men who voluntarily seek in them an improvement in their general education. Many men seek this improvement from a desire to compete for positions as non-commissioned or even for commissioned officers, for the latter of which annual examinations are held which are open to meritorious and intelligent soldiers. For such men superior instruction is necessary and the school teachers are, as a rule, men of high intelligence.

The real school of the soldier, where he is trained in military efficiency, is the non-commissioned officers' school. These schools exist in every company, troop and battery throughout our service. In them the company commander, that is the captain, assisted by his lieutenants, is the instructor. Himself a man of experience and well taught in his profession, he is eminently fitted for this work. Being directly responsible for the efficiency of his company in all its work he spends much time and care upon the school. In it is taught everything that goes to make up the skillful soldier; how to conduct all operations of war within his scope, his drill, guard duties, the care of his own health and of that of the men associated with him. Very little control is exercised by the older officers in these schools, and beyond fixing the general character of the instruction and allotting the time from other duties, they have nothing to do with them. They are the captains' schools for their men and the captains may adopt any methods they see fit or deem wise in their instruction. Generally little is done by recitations; lectures, descriptions and discussions of the various problems of a soldier's life form the greater part of the instruction, which is only carried to such an extent as will enable the men to execute such problems with intelligent understanding. Inasmuch as all theoretical instruction is followed as soon as possible by practical work in the same subject, progress is rapid. In addition to these two classes of schools for enlisted men there are others similar to the service schools for the officers: schools

for farriers and blacksmiths, schools for cooking, schools for baking, and many others which need not be dwelt upon.

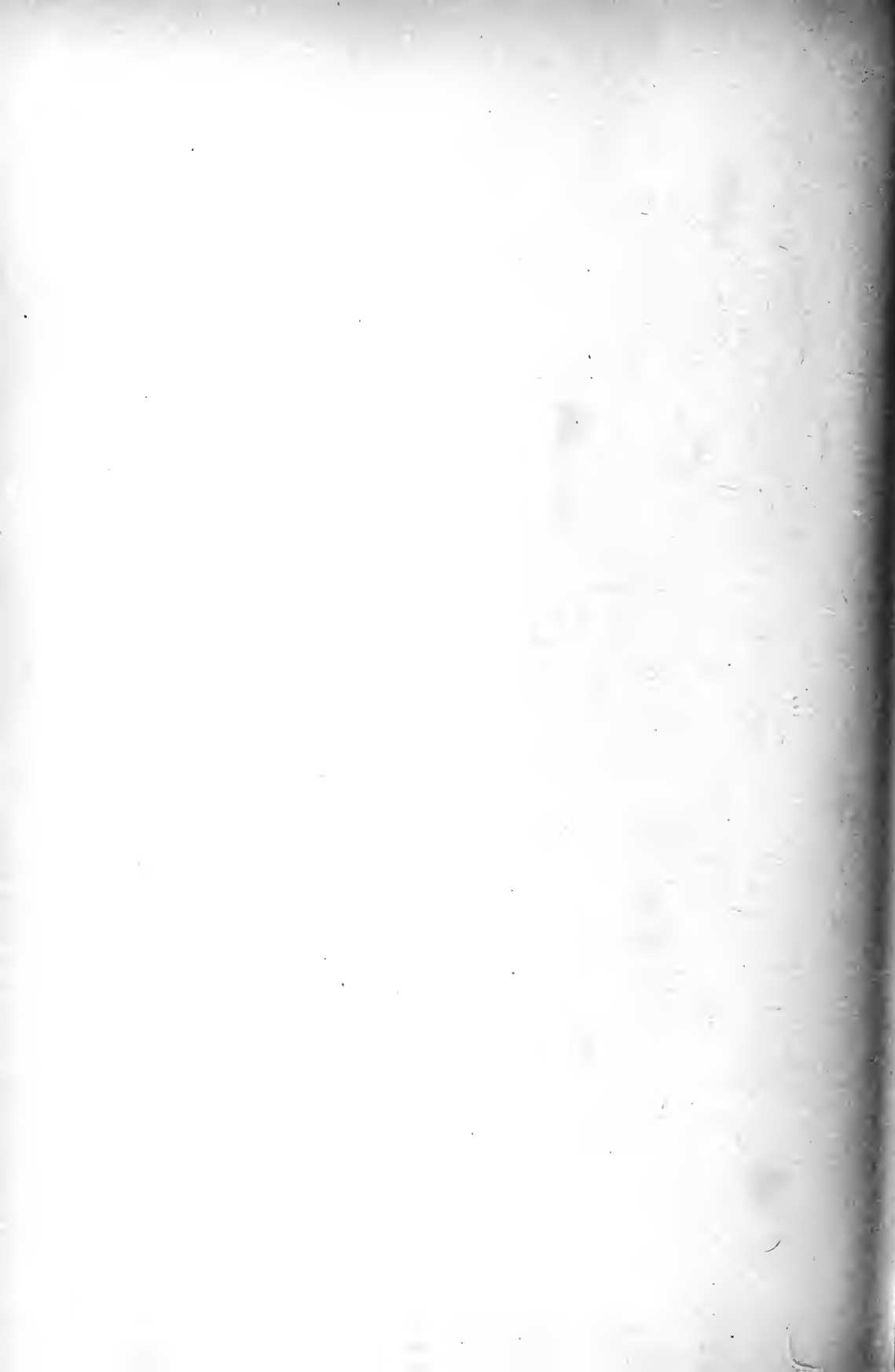
From what has been said it will be seen that the educational scheme of our army, the plan prepared for the training of the efficient soldier, extends from the highest officer to the newly enlisted recruit. Every officer in the service, excepting a few of the older men whose time cannot be spared from administrative work, is constantly employed. Everywhere superior facilities for education are available, and we are striving in every way to make good our deficiencies in numbers by superior training.

It is evident from what has been said that our military men take their profession seriously. They deem it unwise to trust the lives of their men and the welfare of their country to untrained and uneducated officers. They do not share the prevalent belief of our countrymen that the hour will bring the man, and that under the hail of shot and in the thunder of battle a genius will arise who, by inspiration, will bring victory out of chaos. Appreciating their responsibility these officers are striving to give to their country the most efficient army of its size in the world.

# **The Needs of the Navy**

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**By Captain William H. Beehler, United States Navy**





## THE NEEDS OF THE NAVY.<sup>1</sup>

BY CAPTAIN WILLIAM H. BEEHLER,  
United States Navy.

Captain Mahan has demonstrated the influence of sea power upon history, and recent events have confirmed his arguments, showing that a thoroughly well-trained naval force is the most important factor in the efficiency of modern warfare.

Surely it is evident that should Russia even now gain command of the sea by destroying the Japanese fleet, Russia would recover all she has lost in the present war. In our last war Spain was conquered by the naval victories of Dewey and the destruction of Cervera's fleet off Santiago. All other operations were secondary and had no effect upon the result of the war.

In these wars wherein naval supremacy played such an important role a brief comparison of the strength of the belligerent navies will throw light upon the question as to what factors contributed to the superior efficiency of the victors. As regards numbers, the Spanish navy was nearly equal to that of the United States in fighting ships; while the Russian navy in this respect was vastly superior to that of Japan except at the point of contact in the Far East, where the naval forces in actual numbers of ships were about equal at the outbreak of the war. But in these battles the victors were overwhelmingly victorious, much more so than would have been believed to be possible. This superiority was entirely due to the greater ability of the victors in handling their ships and guns. The training and drill in the victorious navies before war was much greater than had been the case with their enemies. My own experience on the United States steamship *Montgomery* illustrates this. In 1896 the drill books required that the *Montgomery* should fire five-inch guns three times a minute. By diligent drills we increased the rate of fire to five times a minute in the first year and then subsequently to seven times a minute. Finally, at the bombardment of Fort Canuelo at San Juan, Porto Rico, the *Montgomery* fired 314 shells from six five-inch guns in exactly five minutes, or 300 seconds of time, or at the rate of 10.4 shots per gun per minute.

<sup>1</sup>This paper was read April 8, 1905.

This rapidity of fire in modern warfare was one of the controlling factors in the naval battles of the Spanish war, and as far as we know it has been likewise so in the war between Japan and Russia. This has been due entirely to diligent drill, and too much stress cannot be laid upon the importance of this drill with modern weapons.

But in order to have this drill it is obviously necessary first to have the weapons, and the modern battleship is the most formidable weapon ever built, but it can only be used efficiently by those who have been thoroughly trained. The battleships must be built, armed, equipped and drilled in time of peace, before war, because it will be almost impossible to obtain efficient battleships after war shall have been declared, and useless to begin then to train the personnel to fight them.

The modern battleship is a most wonderful instrument, and represents the highest development of the practical industrial sciences. The latest developments in every department of mechanical industry, chemistry, electricity, steam engineering, hydraulics and pneumatics contribute to the construction which shall have the greatest offensive power by its armament of the largest guns, and the greatest possible protection by means of armor.

It takes nearly four years to fully complete a modern battleship and a year or two more before her officers and crew can claim to be able to get the very best results from the ship. But it is not only necessary to have these battleships but also to have squadrons and fleets of battleships in order to be able to command the sea when disputed by any of the other great powers. In handling these squadrons of battleships the United States navy has had no experience and is at present urgently in need of opportunity to manœuvre a fleet of battleships so that the combined force will be employed to the best advantage. A study of naval tactics is evidently a most urgent necessity, and while the naval war games throw some light on this subject, it is realized by most naval officers that there is urgent necessity for elaborate and constant drill to develop a most efficient system of battle tactics. Admiral McCalla several years ago proposed a system of naval tactics which has not been adopted and which was adversely criticised by the experts with the naval war games. This system is somewhat similar to the double echelon tactics of Captain Labres, of the Austrian navy.

Without discussing the merits of these systems of naval tactics, a point is brought out to show that we have no provision for a reserve force in a naval engagement. McCalla's tactics seem to provide such a reserve, but these tactics have not been tried by any fleet, and we do not know how this reserve force can be brought into play efficiently in a naval engagement; though most battles on land have been decided by the timely appearance of the reserves. We need a large fleet to demonstrate this and other important features which we cannot expect our British cousins to tell us while they guard all their manœuvres so strictly from the eyes of foreign attachés.

The urgent necessity of a powerful navy in order to preserve the peace of the world does not admit of any argument. The question is, What do we need? The reason why we need a navy is apparent from the recent war in the East. If we consider our relations to China and Japan we may well reflect whether we can continue to exclude Chinese from the United States, or include the Japanese in the same category as the Chinese and still demand the right of Americans to trade in China and send missionaries there. If China had had a navy she would not have been obliged to let England take Hongkong, the Germans to seize Kiaochaou, France to take Tonquin, and, finally, Russia to seize Port Arthur. China is wealthy, and the Europeans seized the Chinese ports because they had the power. If the United States has not an adequate navy there is no reason why any power that feels it to be to her interest to seize any part of our territory should hesitate to do so. It is hardly probable that any European power would attempt anything of the kind at present, but we cannot expect them to keep their hands off the American continent or respect the Monroe Doctrine unless we have the force wherewith to compel this respect.

The completion of the Panama Canal in 1914 will require an adequate naval force for its protection. The force required is generally thought by officers of the United States navy to be at least fifty battleships, which should be divided into five squadrons of nine battleships each, including flagships, and one reserve for each of the five squadrons. This organization would give two squadrons each in the Atlantic and in the Pacific Oceans, with one squadron in the Caribbean Sea that could readily reinforce either the Atlantic or Pacific fleets, maintaining command of the Isthmian Canal. These

fifty battleships would require a proportion of other naval vessels which would give thirty-three armored cruisers of the Washington type, and twenty-five fast scouts, which would be transoceanic merchant steamers built for the navy but armed only in time of war. The rest of the fleet would be 100 torpedo-boat destroyers. There will be a number of auxiliaries, viz.: colliers, transports, ammunition ships, depot machine ships for repairs, distilling ships, hospital ships, and cable ships. Gunboats and cruisers not armored will be useful only in dealings with weak navies, such as those of the South American republics. No such vessels should be built in the future. The navy should confine itself entirely to the four types mentioned, namely, battleships, armored cruisers, fast scouts and destroyers. The auxiliary vessels can be obtained from the merchant marine, and obsolete battleships will be able to do all the duty against weak navies.

The proposition to build fast scouts which shall be transoceanic mail steamers, to be armed only in case of war, would provide a fleet of twenty-five fast scouts, like the *St. Paul* and *St. Louis*, capable of maintaining a sea speed of twenty-four knots. In view of the fact that the American people will not listen to any argument for subsidizing mail steamers, might it not be possible for the government to build these transoceanic mail steamers as fast military scouts, which in time of peace may be leased to private companies to operate and to maintain in condition for conversion into scouts, while carrying transoceanic passengers and mails. Something must be done to aid our merchant marine, for at this present moment there is not a single transoceanic merchant steamer being built in any shipyard in the United States, and every suggestion as to how to build up our merchant marine should be diligently considered.

Our patriotism ought to cause us to provide this navy, this fleet of fifty battleships before 1914. The United States should be at least equal to that of any other power on the high seas. The establishment of the Peace Congress at The Hague does not mean disarmament. The police of a city is necessary even when there are law courts, and The Hague Peace Congress will need an adequate police force in the shape of the navies of the world in order to enforce its decrees, and the nations that have the most to protect, the largest sea interests, the greatest sea coast, etc., should have the

largest naval force. Surely the United States navy should be equal to that of England, but England has now fifty-two battleships built, while we have but fifteen actually finished with ten more building. By 1914 England will have at least one hundred battleships, at the present rate which she is laying down these vessels. Germany completed her program for thirty-eight battleships by laying down the last one this year; while it is contemplated to double this fleet and provide for a total of seventy-six battleships by 1914.

In view of this, and of the fact that the French, Russian and Japanese navies will also be largely increased to number at least fifty battleships by 1914, the appeal I make for fifty battleships for the United States navy is surely not extravagant. During a recent cruise on the Asiatic station in command of the Monterey I saw a great deal of the Chinese, and in common with all other naval officers I realize that the Chinese, as a race, are indeed a wonderful people, endowed with the highest abilities. If the Chinese could once be aroused from the lethargy of their intense selfishness and be endowed with a patriotism such as we now see pervading Japan, the yellow peril would not be a mere nightmare.

The American people can not remain silent in the future affairs of the world. We must rise to the occasion and be so prepared for war that no nation will dare to go to war with us. During the nearly four years that I served as naval attaché in Berlin, Rome and Vienna, this doctrine of preparedness for war was constantly being asserted in Europe. The German Emperor claims to have preserved the peace of Europe for thirty years by his magnificent armies which are so efficient that no one has dared to go to war with him. He is the most enthusiastic disciple of Mahan's doctrine of the influence of sea power, and his great speech that Germany's future is upon the sea has been circulated into every hamlet throughout the German Empire.

The far-sighted German Emperor devotes his energy to the creation of a powerful navy. The wonderful growth of the German Navy League, which acquired an active membership of 600,000 within three years after it was founded, illustrates German activity in regard to sea interests. The German Navy League has branches in every town throughout the empire, and fortnightly meetings are well attended to hear illustrated lectures about the navy and maritime life to interest the inland population of the empire in naval

affairs. The ravages of the Napoleonic war and the Thirty Years' War, etc., are depicted so that for the future the Germans will want to have all their wars away from their homes upon the high seas or in the enemy's country.

Germany has only recently become a great maritime power, and has made the most rapid progress in recent years. Her navy is most efficient because in all naval affairs Germany—and the same is true of Japan—is not handicapped by conservative traditions. American machinery and manufactures are invading Germany. The German navy is up to date, all her battleships have triple screws, and they carry liquid fuel. Turbine machinery has been introduced. The Germans are far in the lead of all nations in all that pertains to torpedoes and submarine mines.

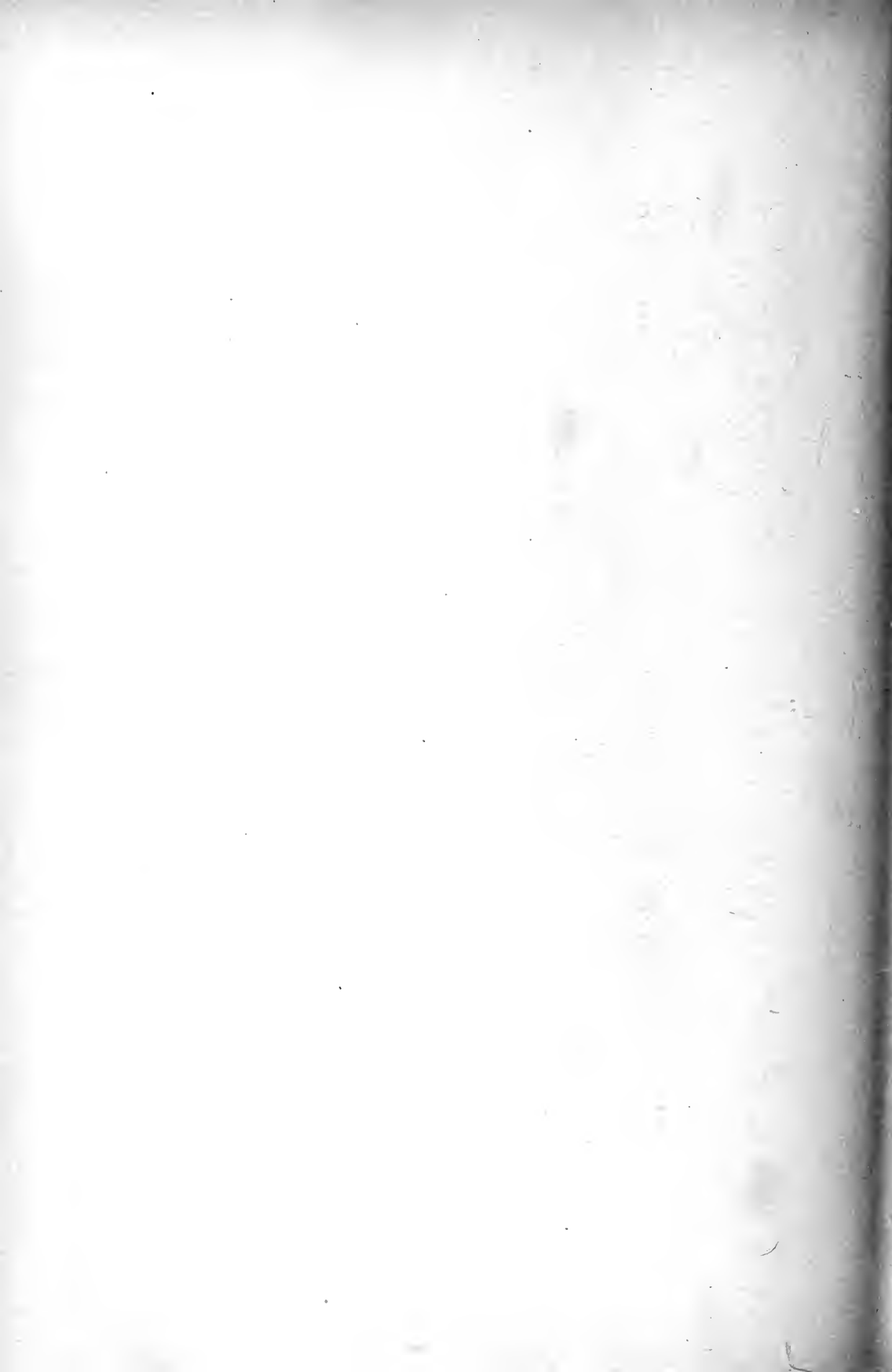
The constant drill and thorough training of the German navy personnel is admirable; but it is so exacting in minor details that some of my brother officers have questioned if the German sailor would ever rise to an emergency should anything happen not foreseen by the drill book. We are prone to disparage the intelligence of all foreigners because of the stupid appearance and conduct of immigrants just landed. The immigrants find themselves with everything about them different from that to which they were accustomed, but the foreign sailor on board of his own ship with the environment of his own fellow subjects is at home and is just as bright and quick as are the seamen of other countries in their own ships.

An instance came to my knowledge in the fall of 1901 before Prince Henry's visit. Prince Henry was cruising in his flagship, Kaiser Friederick III, in the Baltic when she struck an uncharted glacial boulder on Adler Shoal. The ship struck with great violence in the wake of a petroleum oil tank in her double bottoms. Both inner and outer bottoms were penetrated. The force of the blow forced oil up through an air-escape pipe with such violence that the pipe burst at the level of the top of the boilers and the oil flowed down and was ignited by the fires under the boilers. Flame and smoke filled the compartment, while water streamed in through the leak, but the sailors did not abandon this fire room until after they had screwed up the stiffening braces of the watertight bulkheads, after which they pumped water into the compartment through the fire mains to float the burning oil up to the ceiling of the protective deck, so that the flames were extinguished when the compartment

was entirely filled with water. Prince Henry then took the ship to Kiel. Surely there was nothing prescribed in the drill book for this emergency, and even American sailors could not have done any better.

We have a high opinion of ourselves in the United States navy, but we are conservative and have not yet introduced triple screws for our battleships, smokeless liquid fuel, nor turbine engines. We are just beginning to introduce torpedo armament in our battleships, and we must admit that we are far behind European navies in torpedo and mining warfare. We therefore urgently need these battleships now in time of peace so that we may drill with them and be fully prepared to use them in time of war.

The cost of this enormous fleet of fifty battleships with proportion of other vessels must be considered, and if we take the actual battleship as costing \$8,000,000, it will require \$400,000,000 to build the fifty battleships and probably as much more again to build the 205 other vessels (armored cruisers, scouts, destroyers and auxiliaries), or a total of \$800,000,000, ignoring the fact that we have twenty-five battleships already built and building. Eight hundred million dollars spent in ten years would require \$80,000,000 annually, or at the rate of \$1 per capita of United States population. For maintenance would be required about \$80,000,000 annually, or a total of \$2 per capita. This is naval war insurance. As compared with our naval pension since the Civil War, which has cost us annually about what this fleet of fifty battleships will cost, this naval war insurance is not expensive. The pensions represent a very small fraction of the damages done by the war, and if we do not provide this fleet now, in time of peace, a war will find us unprepared and the enemy will oblige us to pay an indemnity to reimburse him for what he had spent to build his navy.





## V. Appendix



REPORT OF THE ANNUAL MEETING COMMITTEE.

NINTH ANNUAL MEETING  
OF THE  
American Academy of Political and  
Social Science

*Philadelphia, April 7 and 8, 1905.*

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The far-reaching changes in international relations which have taken place during the last few years strongly influenced your Annual Meeting Committee in selecting "The United States as a World Power" as the general topic of the Ninth Annual Meeting. In addition to the annual address, the two leading topics which your Committee desired to have fully discussed were: "The Relation of the United States to the Other Countries on the American Continent" and "The Interest of the United States in the Settlement of Political Affairs in the Far East." In addition to these topics the extraordinary situation in the Far East lent special interest to a discussion of "The Factors of Efficiency in Modern Warfare," especially as your Committee was able to secure the co-operation of the Army War College and of some of the leading officials in the Navy Department.

The importance of the topics and the keen interest aroused by the preliminary announcements made it necessary to secure Witherspoon Hall, one of the largest halls in the city of Philadelphia, for the afternoon, as well as for the evening sessions. No annual meeting in the history of the Academy has been so largely attended, nor have we had at any time so large a representation of members from all parts of the country. The speakers, as well as the visiting members, were entertained by the Local Reception Committee at a series of luncheons and receptions, and ample opportunity was furnished for that personal contact and interchange of views which are such

important factors in the success of the annual meetings of the Academy.

Your Committee desires to express its appreciation of the courtesies extended to members and visitors at the Annual Meeting by the Provost of the University of Pennsylvania, the officers of the Manufacturers' Club and the University Club. As in former years, the expenses of the meeting have been defrayed principally from a special fund contributed by friends of the Academy. The generous support received from these sources has enabled the officers of the Academy to enlarge the scope of the meeting and to give wider circulation to the printed Proceedings. The thanks of the members of the Academy are due to those who have made possible the extension of its public usefulness.

SESSION OF FRIDAY AFTERNOON, APRIL 7TH.

The session of Friday afternoon, April 7th, was presided over by the Honorable Francis B. Loomis, who was introduced by the President of the Academy, Professor L. S. Rowe, of the University of Pennsylvania. Professor Rowe spoke as follows:

"During the last few years the American people have passed through a rapid process of education on matters relating to our foreign policy. The imagination of our people has been impressed by the splendid achievements of our Department of State; and while we have seen the record of that work I doubt whether we realize the tremendous effort that stands back of that achievement, the long study and careful negotiations preceding the final success attending those negotiations. The efforts of our Secretary of State have been ably seconded by the first assistant, now the acting, Secretary of State, the Honorable Francis B. Loomis, whom we have the pleasure of having with us this afternoon, and whom it is my honor to present to you as presiding officer of the day."

Joseph Wharton, Sc. D., of the Reception Committee, upon the invitation of Chairman Loomis, cordially welcomed the audience on behalf of the Reception Committee and the city of Philadelphia.

The Presiding Officer then made an introductory address on "Attitude of the United States Toward Other American Powers," which will be found on pp. 19-24 of this volume. Addresses were also delivered by Dr. Talcott Williams, of Philadelphia, on "Europe

and the United States in the West Indies," printed on pages 33-44; Professor Emory R. Johnson, of the University of Pennsylvania, on "Responsibilities of International Leadership," pages 25-31; Henry J. Hancock, Esq., of Philadelphia, on "The Situation in Santo Domingo," pages 45-52; Honorable Tulio Larrinaga, Resident Commissioner of Porto Rico to the United States, on "Conditions in Porto Rico," pages 53-56.

After the more formal addresses the discussion was participated in by Professor Lindley Miller Keasbey, of Bryn Mawr College, who spoke as follows:

#### THE RESPONSIBILITIES INVOLVED IN OUR GEOGRAPHICAL POSITION.

"Long ago, when the Monroe doctrine was enunciated, the question was entirely one of territorial aggrandizement. Our social surplus was then derived mainly from land; people wanted land; and incidentally those who wanted land were the large landholders and planters. Things have changed considerably since that time. Now what we want is small farms for new planters and markets for our merchants. The opportunities for small land holdings in Canada are practically without limit, the possibilities of the development of the Canadian Northwest are really remarkable. Every facility is given to the American settler to have land in the Canadian Northwest. Now, if this same policy could be applied to the eastern merchant in the United States, I, for one, would be exceedingly glad. It does seem to me that the Joint Commission might come together once more and deal with this whole question between Canada and the United States on a business-like basis. We look at all these questions of the Monroe doctrine, it seems to me, too much from a political point of view, that is, we regard the United States as one political entity against Great Britain as the other political entity; whereas it should be a question between two business men, each seeking a legitimate advantage. As a matter of fact, the question is a business one and not one around which the political line can be drawn. As it is, the tariff line interferes with the normal business development of two great portions of the American continent.

"In the South also we are looking upon this question too much from a political point of view, comparing the American Republic as a political entity with the Spanish-American republics as political

entities. There, again, it is a business proposition pure and simple. Some of those states have been successful. Our attention has been called to the wonderful development of Mexico. Other states, for one reason or another, have been unsuccessful and are bankrupt. Now, when a business becomes bankrupt it is put in the hands of a receiver. As those states go bankrupt they should be put into the hands of a receiver; and the United States, I am glad to see, is appointing one receiver right now.

"It is a business question between us and Canada on the north; it is a business question between us and the Spanish-American Republics on the south. The good side on the north is the settlement of American farms in the Northwest, and the good side in the south is the growth of the small planter in the West Indies and Spanish America. What should be the good side in the north is some arrangement of our tariff so that there will not be these difficulties as between merchants of Canada and the United States; what should be the good side in the south, it seems to me, is the appointment of receivers for impoverished states, as is done in the case of a business that has been shown to be absolutely bankrupt."

SESSION OF FRIDAY EVENING, APRIL 7TH.

Owing to the illness of the Provost of the University, Dr. Charles Custis Harrison, the session of Friday evening, April 7th, was presided over by J. Levering Jones, Esq., a trustee of the University of Pennsylvania. Mr. Jones, in opening the meeting, presented the welcome of the University of Pennsylvania to the speakers and guests of the Academy and expressed the keen interest of the institution in the discussions of the Annual Meeting. Mr. Jones then introduced the President of the Academy, who presented a review of the work for the year 1904-1905.

"The annual address of the President to the members of the Academy is undergoing an interesting process of extinction. With each year greater use has been made of the 'leave to print' privilege until at the present time the occasion is used to point out the new and wider opportunities for usefulness that are opening before us. It is an interesting and gratifying fact that the need for this review of the work of the Academy has grown less marked as the interest and participation of our members has become more active,

for most of our members are now kept in close touch with the work of the Academy.

"The Annual Meeting furnishes an excellent occasion to emphasize the national character of the work of the Academy. The winter sessions are attended almost exclusively by our local members and we here in Philadelphia are apt to lose sight of the fact that the Academy is in constant touch with a membership of 2,860, distributed throughout every state of the Union and most of the countries of South America, Continental Europe and the Far East.

"The influence of the Academy, however, is not to be measured by the closeness of the relation of the members towards one another, but by that larger influence which this great group of persons, who are interested in the political and social problems confronting our country, are able to exert upon the public opinion of the country. The great problem confronting our American civilization is not the discovery of new material resources, but rather the better utilization of existing opportunities and the better adjustment of the relations between the various elements that go to make up this great composite community. This change can be brought about only by the slow and silent process of education.

"The difference between right and wrong thinking on any great question of public policy involves a loss and waste so great that it does not lend itself to numerical calculation. The labor problem, for instance, resolves itself very largely to an appreciation on the part of the unions that with power there must come corresponding responsibilities and on the part of the employers that such responsibility in organization is of gradual growth and cannot be secured by blind opposition to organization in any form. In the same way we might discuss all the great industrial and social problems. The same necessity for a clearer appreciation of underlying principles and forces always confronts us. It is the gradual raising of the level of public opinion which the Academy must constantly keep in mind. We are organized as a national body for the purpose of discussing public questions amongst ourselves, but rather for that larger purpose of disseminating throughout the land the results of the most careful research and inquiry.

"The Academy issues every two months a special volume on some important problem confronting the country, and it is through the influence of these publications that the Academy is able to carry

out its larger purpose. During the time which has elapsed since our last Annual Meeting, the Academy has issued the following special volumes:

1904, May—Philanthropy and Penology.

“ July—The Government in Its Relation to Industry.

“ September—Some Problems of Labor Organization.

“ November—Insurance and Commercial Organization.

1905, January—Business Management and Finance.

“ March—City Life and Progress.

“The strengthening of solidarity amongst our members and the growth of the feeling of individual responsibility for the extension of the Academy’s influence are the two forces upon which the future growth of the Academy depends. With these two assured the possibilities of service to our country are unlimited.”

The Presiding Officer then introduced the Honorable Seth Low, who delivered the annual address on “The Position of the United States Among Nations.” This address is printed on pages 1-15 of this volume.

At the close of Mr. Low’s address the President of the Academy presented to the speaker the thanks of the Academy for his able address.

At the close of the session of Friday evening a reception to the speakers at the Annual Meeting was tendered by the Manufacturers’ Club.

#### SESSION OF SATURDAY AFTERNOON, APRIL 8TH.

The session of Saturday afternoon, April 8th, was devoted to “The Settlement of Political Affairs in the Far East.” The Presiding Officer of the afternoon, General James H. Wilson, was introduced by the President of the Academy, who referred to the splendid work of General Wilson as Military Governor of the Province of Matanzas in Cuba, and as Commander-in-Chief of the united military forces of the great powers in China during the Boxer uprising. General Wilson then delivered the introductory address, which will be found on pages 59-74.

Addresses were also delivered by Baron Kentaro Kaneko, of the Japanese House of Peers, on “Japan’s Position in the Far East,” pages 75-82; John Hays Hammond, Esq., of New York City, on

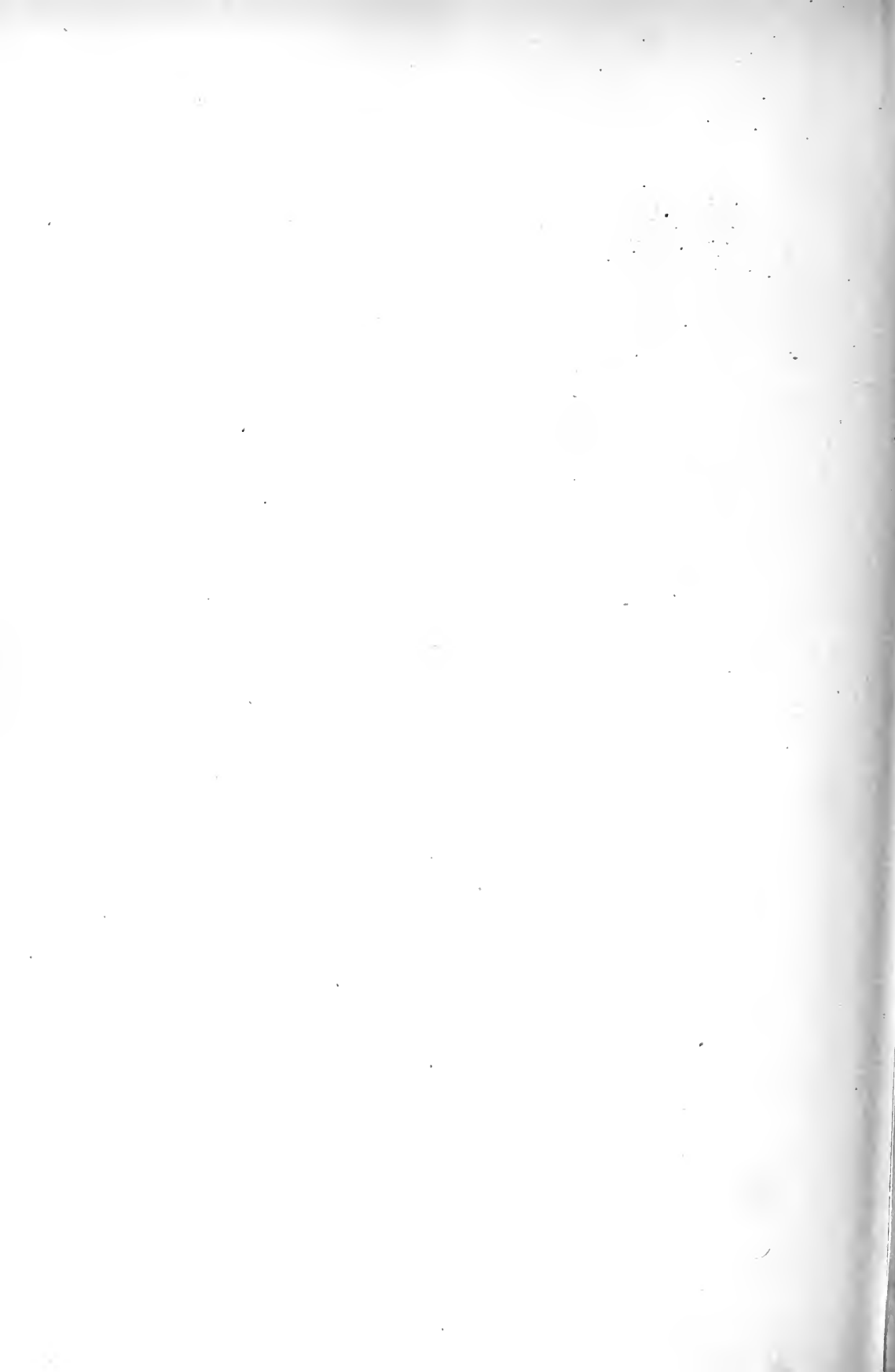


"American Commercial Interests in the Far East," pages 83-88, and Honorable Charles Emory Smith, former Ambassador of the United States to Russia, on "The Internal Situation in Russia," pages 89-96.

SESSION OF SATURDAY EVENING, APRIL 8TH.

The topic of this session was "The Factors of Efficiency in Modern Warfare." The Presiding Officer of the session, Brigadier-General Tasker H. Bliss, was introduced by Major Joseph G. Rosengarten, of Philadelphia. In introducing the Presiding Officer, Major Rosengarten referred to General Bliss' eminent services as commander in the field and as President of the Army War College. General Bliss then delivered the introductory address on "The Important Elements in Modern Land Conflicts," printed on pages 99-120. The address of Rear-Admiral Frederick Rodgers, on "The Extent to Which the Navy of the United States Should Be Increased," will be found on pages 137-145; of Rear-Admiral George W. Melville, on "The Important Elements in Naval Conflicts," on pages 121-136; of Colonel W. W. Wotherspoon, on "The Training of the Efficient Soldier," on pages 147-160; of Captain William H. Beehler, U. S. N., on "The Needs of the Navy," on pages 161-169.

At the close of the session of Saturday evening a reception was tendered to the speakers by the Local Reception Committee.



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## PREFACE

This volume comprises a series of public lectures given in conjunction with the insurance course at the Wharton School of Finance and Commerce of the University of Pennsylvania during the academic year 1904-05. The lectures, carefully revised and in some instances rewritten by the authors, aim to present clearly and succinctly the most important facts and problems of the insurance business as viewed by those who have charge of the actual management of insurance companies, or who are otherwise intimately connected with the business. The papers also aim to afford a brief and thorough treatment of the importance and nature of the leading forms of insurance, and the principles and methods upon which the insurance business is based and conducted.

While not intended for the use of experts, it is hoped that this volume will prove of value and interest to those who are engaged in the insurance business, and that it will serve as a text-book to those students of insurance who either intend to enter it as a profession or who wish to understand correctly its nature as a business and its usefulness to the individual and the community. It is also thought that this volume may prove of value to the busy man of affairs who has not time to consult the large mass of existing insurance literature, and to whom a volume of this kind should be serviceable in preparing him to utilize the protective power of insurance when occasion requires.

The University of Pennsylvania is pleased to acknowledge its debt of gratitude to those who gave their services in the preparation of these lectures. Despite the absorbing cares of business, the contributors to this volume have shown a keen interest and pleasure in promoting University education in insurance. Through their generous and hearty co-operation they have given much aid and

support to the courses in insurance at the University of Pennsylvania, and have greatly added to the success of the work.

The American Academy of Political and Social Science welcomes this opportunity to give enduring form to this valuable course of lectures, and desires to unite with the University of Pennsylvania in thanking those who, by contributing these papers, have co-operated in the work of the Academy.

Both the University and the Academy are under special obligation to Dr. Solomon Huebner, Instructor in Commerce and Insurance at the University. It was he who organized the course of lectures and carried it through successfully, and he has performed the laborious task of editing the papers and supervising the publication of the volume.

THE EDITOR.

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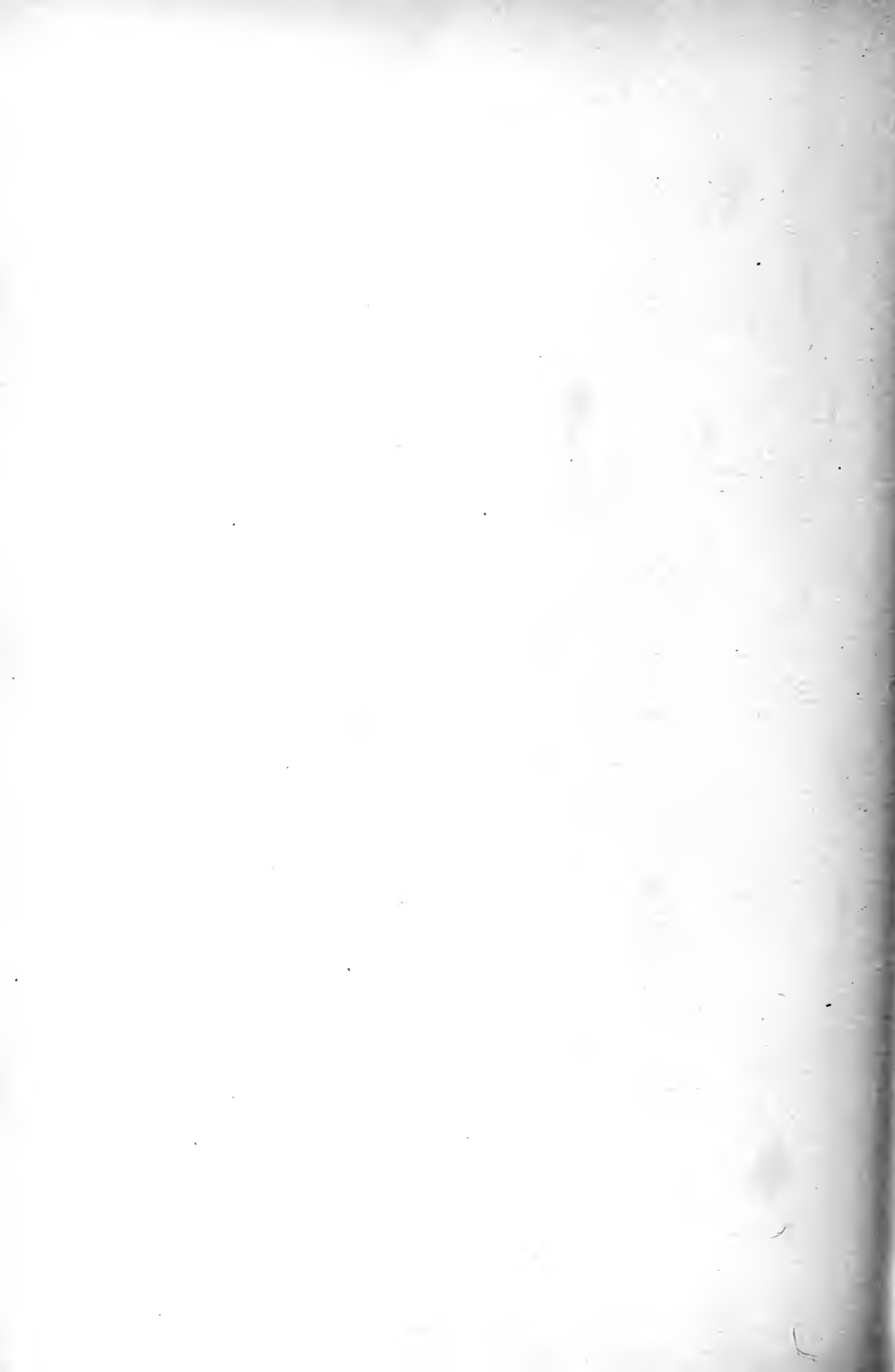
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## **I. Life Insurance**



## ECONOMIC PLACE OF LIFE INSURANCE AND ITS RELATION TO SOCIETY

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By F. C. OVIATT,

Editor of the *Philadelphia Intelligencer*.

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The foundation of life insurance is the recognition of the value of a human life and the possibility of indemnification for the loss of that value. This is essentially a modern conception. While some recognition of the value of life has obtained for centuries, it was reserved for the nineteenth century to really recognize the principle of indemnification. Those earlier years recognized that certain lives possessed large value, but the bulk of the population did not seem to possess value, so long as the work laid down by one individual could be taken up by another. The thought of perpetuating the economic value of life did not occur to those men of an earlier day. It is not the purpose to trace the history of life insurance in detail, but simply to note a few of the features which bear upon the place of life insurance in social economy. For this purpose, life insurance may be treated as a nineteenth century development, since the history of life insurance before the nineteenth century is of but little importance from the economic standpoint. In order to treat the subject in a logical way, the first consideration will be the foundation stone, namely, the value of a human life. Then naturally follows life in its associated forms of the family and the state. Next will come the means for securing protection of the value of the individual life and the bearing which that has upon the life of the community, and, finally, how this affects the industrial, political and financial life of the country.

The foundation, then, of all life insurance, is the value of the individual life. This is true, though, in order to transact the business, a large enough group of lives to permit the working out of the law of average is necessary. Beginning with the individual, enough are grouped together to permit the determination of mor-

tality experience, cost of transacting the business and ensuring the security of the contracts. In considering the value of life, there are two classes, namely, producers and consumers. While these classes intermingle to a certain extent, and some individuals belong to both classes, every individual belongs to at least one. The producer belongs to both classes, producing that he may consume and consuming that he may produce. The consumers who do not produce may be divided into three classes: First, those who cannot produce; second, those who will not produce, and, third, those who do not have to produce. These three classes are dependent upon the labors of the working portion of the community.

Out of the relations of producers and consumers grow all the many forms of human activity. It is the purpose of this lecture to consider only a few of the fundamentals which govern the economic relations of man. The first of these relations is that of interdependence. Not infrequently we hear the statement made by a man that he is independent of the whole world. He may think this to be true, but it is not. Furthermore, it ought not to be true. If a man's work be not related to some other man's work or to some other man's enjoyment, a large part of its value is lost. What is the vital nerve of man's activity? In a word, it may be said to be that which causes a man to do the best he can that he and those dependent upon him may have a just measure of comfort and enjoyment. Many things which a man might not care to do, so far as he is concerned, he will gladly do for the sake of those whom he is bound to by ties of interest and affection. This interdependence gives to every life an economic value. The helplessness of infancy and old age, the demands of the cripple and the invalid, are continually speaking to us in a way which cannot be ignored. These non-producers require the aid of the producers for their continued existence. There is no profounder economic saying in all literature than that of the Apostle Paul, that "no man liveth to himself alone."

As a life has a distinct economic value, as related to other lives, so the development of a life must of necessity be of general interest. This truth should be kept closely in mind in all considerations of life insurance as an economic factor. Many persons say that it makes no difference to them what happens to some one of whom they have no knowledge, and that consequently their action can have no bearing on the welfare of that unknown person. This is a fallacy,

proven to be such by the ordinary current of life. A famine, a flood, a pestilence, may affect persons whose names we do not know and never expect to know, but the misfortunes of these unknown persons appeal to us in such a way as to secure a prompt response. An injury to the people of Maine is an injury to the people of Pennsylvania. A famine in India secures contributions in America. Persecutions in Armenia awaken general interest in other portions of the world. Misfortunes in the mass appeal to us, but mass misfortunes do not touch nearly as many lives as what may be termed individual misfortunes. The man who suffers in an adjoining neighborhood, city or state, is a burden upon the rest of his community. The wide distribution of misfortunes is real. The community's burden from this source is continuous, and this is the great reason for the development of life insurance. The individual owes a duty to himself, to his family and to the state. One cannot live a life of average duration and average activity without creating responsibilities which must extend beyond the period of his life. If he cares for those responsibilities, so that when he ceases to be a producer those who have been dependent upon him shall be cared for by the provision which he has made, then his duty has been performed. If he fails in making such provision, he has not performed his whole duty.

The second point is life in its associated forms of the family and the state. When a man has money invested in buildings and personal property, he endeavors to protect himself against the possibility of damage through the loss of the property. He does this not simply because of the money involved, but because the loss would have an adverse effect upon his business and those dependent upon him. It is a commonly accepted truth, which is embodied in our laws, that a man may not do as he pleases with his property or his life, if doing as he pleases in these regards will injure his fellows. This proposition is one of the main foundations upon which society rests. Is there any greater necessity for protection in the matter of property and life than of the value of a life? What can take the place of a life? Nothing, save another life equally well equipped. The life has found its place in the community, is doing its work, caring for its responsibilities, through its earning power. When a man moves from one community to another and leaves behind him unsatisfied obligations, which he

might have satisfied, men do not speak well of him. Is it more to a man's credit to journey from one world to another leaving unsatisfied obligations which might have been satisfied? How do these obligations affect the world in which a man lives and moves? In the first place, they affect his family. The family is dependent upon the man as the chief bread-winner. A large proportion of the family is likely to be non-earning and, all too frequently, not equipped for the immediate securing of enough money for support. Each one of these dependent ones is a sort of note of life, and when a man lays down his work without having made provision, these notes, so far as his estate is concerned, are protested. If this were all, life insurance might not be so much of an economic factor. These notes of life, however, must be paid by someone, to a greater or less extent. They may be shaved, they may be protested, but somebody must pay a certain proportion of them, at all events. What a man fails to do, the state must do; therefore, the man's family creates a burden which the state may have to carry. This burden is twofold. In the first place, it is one of support. There must be bread and butter, clothes, enough to live on, and if the estate of the man who created the burden is not sufficient, the state must step in. The second burden is one of equipment. Every man owes to the state the best possible service. If a man fails in securing the proper equipment, then he will not do the best possible work. The dependent ones will enter the race of life handicapped, and the state—that is, the people in an associated capacity—loses by the operation. Therefore, the family has an economic demand upon the head of the house for an even opportunity in the race of life. Second the state has a right to demand that each man shall do his share. The fulfillment of this obligation cannot be secured by legislative enactment. It must be secured, if secured at all, through the feeling of responsibility on the part of the individual. The state is privileged to say that man shall not lay undue burdens upon it. Man, the family and the state are all bound up in such a way that they cannot be separated. Anything which tends to make this burden less, to insure larger opportunity, better equipment for work, is an economic help of the highest importance. Such help, under our civilization, is rendered best and most completely through life insurance. Every family in which there is a life insurance policy is of more value to itself and to society by the proportion which the amount of that

policy bears to the amount needed for the fulfilling of the man's obligation. This truth is a universal one; it applies with equal force to the man who is able to buy a million dollars of insurance and to the man who is able to buy only a hundred dollars of insurance. Neither one may have enough life insurance, yet what he possesses of life insurance is a step in the direction of the fulfillment of duty. Life insurance is, therefore, the means provided in our civilization for insuring that life shall reach its highest efficiency so far as the individual is concerned, with all that that implies, upon society as a whole. The work which it is doing cannot be done so well through any other means as yet devised. It is a primal factor and is the foundation stone upon which the protection and continuance of the power of life is based.

We will now consider the means employed for protecting the value of the life. Life insurance companies furnish the means. They gather up the contributions of the many and disburse them as they are needed. Here we come into contact with another phase of our question. Man, on the whole, will not save, except under pressure. A man has a certain income, and the tendency is to spend that income as it comes along, trusting to the future to provide a continuance of it. Some people save something for the future. They put their money into savings banks, building and loan associations, buy lands and houses. Such saving is purely voluntary, and if the man does not find it convenient to put a hundred dollars into a savings bank this month, he is likely to say, "I will put in two hundred dollars next month," and the chances are that next month he will only put in one hundred dollars. Life insurance requires the payment of the savings at stated intervals. The man comes to treat his life insurance premium somewhat as a man would treat the interest on a mortgage or a note. He knows when it falls due, and he is prepared to meet it. To sum it up in a word, life insurance forces thrift. This may be thought to be rather a strong word, but it seems as though the word "encourage" is not strong enough. Now, the encouragement of thrift is recognized as an important factor in social and material economics. Its importance is urged over and over again by writers on political economy and sociology, as making for the well-being of society. There is no line of business to-day which so patently enforces the lesson of thrift as life insurance. Take the millions of policyholders of industrial life insurance companies with

the agents calling for their weekly collections; take the millions of policyholders of level premium companies, with premiums falling due annually, semi-annually and quarterly, all a most practical kind of thrift lessons, and it is almost impossible to measure the economic value of these collections to society. The collection of ten cents a week or fifty dollars a year, or two hundred dollars a year, or five hundred dollars a year, from individuals, does not seem to be a great deal when standing by itself, but when it is aggregated the sum almost staggers us by its immensity. All this vast sum of money is savings. Economically, it is the act of the individual making provision for the responsibilities which he has created. It differs only in form from the obligations which a man assumes when he purchases property and gives a mortgage to secure future payments. In the case of the mortgage he has the money in hand, pays interest on it, and at a future date pays the principal. In life insurance, on the other hand, he pays the interest as he goes along, and upon the happening of a certain contingency he or a certain person or persons whom he designates receive the principal. Either form of treatment is a method of saving, a method of increasing the accumulated wealth of the country. The main thing is that out of the earnings of the producer a certain amount is set aside for future use. There is an old proverb that money saved is money earned. It is not what passes through a man's hands, but what he holds on to, that gives him a competency. The holding on is difficult, and any device which helps a man to hold on to his earnings and turn them into earning capital makes for the prosperity of the country and the strengthening of its economic power. Nothing so far has been devised which enables so large a proportion of persons to save under such easy conditions as life insurance, hence its high rank in economic life.

How large a portion of a man's income should he invest in life insurance? This is a practical question. Every man must judge according to his opportunities and obligations. A broad general rule may be given which will help to keep a man up to the mark of his obligation. A man's life insurance should be large enough, when invested at the current rate of interest, to produce an income half as large as he earned in his lifetime. This is minimum, not maximum. To illustrate: A man is earning \$1,200 a year. The bread-winner of a family is responsible directly for the expenditure



of a large portion of his income. Estimates of this expenditure run from one-third to one-half of the income. On the half basis, there should be at least a continuation to the family of six hundred dollars of the annual income. To provide will require, at the normal rate of 4 per cent., the sum of fifteen thousand dollars; that is, the man, to secure this income to his family, should carry fifteen thousand dollars of life insurance. What will this cost? For the young man of twenty-one, for whole life policies, about \$300 a year; for limited life policies or long-term endowments, about \$450 a year, while for renewable term policies, in the neighborhood of \$180 a year. Beginning at this period of life, the amount can be gradually provided for so that when the income amounts to \$1,200 the fifteen thousand will not be such a burden as if it had been taken all at once. As the income increases, the amount can be increased. If the young man takes limited payment or endowment policies, those taken at the first will become paid up or have matured by the time middle life is reached, and he can begin to rest easy as to responsibilities which need caring for. It then becomes a case of provision made and premiums paid.

Another phase of this part of the subject, which is of high importance, is the conditional element. By this is not meant that the payments to the beneficiaries are conditional as a final fact, but that they are conditional in this, that the principal sum may be paid after one year's interest has been turned over, and it may not be paid until twenty years' interest has been paid over. It is certain as regards payment and it evens up the chances of life by providing for a payment of the principal sum no matter whether few or many payments have been made. It has this advantage over the purchase of property for which a mortgage is given. In the latter case, the money must be paid either by the buyer or his heirs. In the former case, it is all paid in the policyholder's lifetime, no matter how short his life may be, after the first payment is made. While it would seem at first sight as though this were an injustice to the man who pays for a long period, still life insurance is so balanced and the computations are made upon such a basis that the average is fair to all.

The next point of view touches life insurance as an economic factor in the material development of the country. In modern life accumulated capital is a great power. One hundred thousand men

each possessed of \$1,000 of capital can only avail themselves of investments of the thousand-dollar class. This limitation cuts out many excellent investments from the individual possessed of small capital. He sees something which promises good returns upon the money, but the sum required is so large that his one thousand dollars is a negligible factor. The 100,000 men cannot be brought together at the time when this investment offers itself, so it has to be passed over to the man of large capital, who is equipped for handling such investments. Everyone who has had small sums to invest has experienced this difficulty, and has, no doubt, often asked himself how the small investor can be placed on a par with the large investor; has asked how the really choice investments which result from the development of the country can be placed to his hand in available shape. This important economic function is admirably performed through the medium of life insurance. The company gathers twenty dollars here and fifty dollars there, a hundred dollars there and a thousand dollars in still another place. Soon a large volume of money is ready for investment. With a hundred thousand dollars, or five hundred thousand dollars, or a million dollars, the company can go into the money markets and buy securities of the very highest class. The men who desire to borrow money for the development of business interests know that, if their security is first-class, life insurance companies are ready to lend them money. By this means the man who has fifty dollars to invest in a given year insures its earning the same rate of interest upon the same safe security as can be obtained by the man with a million dollars to invest. It is hard to overestimate the value of this to the community. The investors know that the life insurance companies have money to invest, and so they offer them the securities they have to sell. Opportunities that would never be offered the individual are offered the insurance company. No other medium for the investment of savings equals that of the life insurance company. There are, of course, other forms. Many persons patronize the savings banks. The savings bank, however, operates in a limited territory, and is not open to persons in small and medium size communities. The life insurance company, however, offers the same advantage to the farmer as it does to the resident of the metropolis. The man who, after he has sold his grain, his potatoes, his live stock, has a hundred dollars to invest, can do it just as satisfactorily as the man who does business in the

heart of the financial district of a great city. Then, again, this man who lives in an out-of-the-way place can time his life insurance investments so as to meet the time when his money is ready to invest.

He sells his property at about the same time every year, and he can have his premiums made payable at that time. If he is delayed a month or six weeks in receiving his money, the insurance company is willing to extend his time of payment. The life insurance company is, therefore, peculiarly well fitted in dealing with all kinds of people in all sections of the country and under all circumstances. In a sentence, the company accommodates itself to the needs of its patrons. It is always ready to help a man save his money and secure its highest earning power.

Another side of this power of accumulated capital is to be found in its aid in the development of business. The investments of a life insurance company are to be found in all parts of the country. They include all kinds of safe and profitable investments. The man who desires to borrow a thousand dollars on a first mortgage finds the company ready to do business with him. The man who plans the erection of an apartment house finds that, when his plans are completed, the insurance company is ready to finance the investment up to the limit of wise financiering. The country bank which has a larger capital than its citizens can purchase, can sell its shares to the insurance company. The railroad company planning to improve its property can sell its bonds to the insurance company. The municipality bonding itself for park improvements, additional water supply and other municipal improvements, requiring the use of money for a long period of years, always expects a goodly amount of its bonds to find their way into the strong boxes of life insurance companies. So the life insurance company brings together the different persons and corporations who need to borrow large sums of money and the great multitude of individuals who have small sums to loan upon terms that are satisfactory to both. Were it not for the life insurance company, it would be difficult to collect these small sums and make them available for development purposes. There is scarce a great enterprise which has not had the use of some of the money of the small investor by reason of the wonderful development of life insurance. Borrowers, like policyholders, are to be found all over the country. Perhaps the highest

tribute which can be paid to the life insurance company as a financial factor in the business life is the care shown in its investments, the security which they require and the fractional percentage of money which is lost by the companies through lack of wisdom in the making of investments.

Still another factor is the distributions of the life insurance company to its policyholders and their beneficiaries. To the policyholders, in the shape of dividends, maturing of limited payment policies and endowments. To the beneficiaries through the death claims which are being paid from day to day and from week to week. A man has been paying premiums for a series of years on an endowment policy. In due time the policy matures. The face of the policy is paid to the policyholder, and this money is thus placed in his hands for reinvestment for the advancement of his fortunes and the well-being of the community. One has only to look over the list of payments as printed in the *Insurance Press* from time to time, and their aggregates at the close of the year, to see what a large sum of money is being sent back into circulation all the time through the payments of life insurance companies. Here is a town of five thousand inhabitants. Perhaps, in a given year, the life insurance companies may pay in that town \$50,000 on account of matured policies. This at once becomes, in a sense, local capital, ready to build up the enterprises of the community. It has been gathered over a series of years, loaned out by the company at a satisfactory rate of interest, gone into the lines of going business to make them more efficient, and now, after it has completed its round of journey, it is sent back into the community from whence it came in an accumulated form. The fifties, the hundreds, the thousands which were paid as premiums would not have been of very great value, apparently, at the time they were collected. The community has not known where this money was invested nor how it was doing its work. It comes back now, however, as a lump sum, ready to renew its multifarious duties of helping development and prosperity.

There is still another way in which the collecting of this money has helped the community. The men who sell the insurance receive a commission on the premium, and this they spend in the place where it originated. It has given men employment, has supported their families as it was gathered. To be sure, this is only an incident of the business, but it serves to show how wide are the rami-

fications of life insurance, how many persons it touches, how many it helps and how it makes for the progress of the entire social life.

Let me briefly recapitulate. Life insurance is based upon the value of the individual and the necessity for protecting that value. In its inception, it is individual. It treats with individuals as individuals, and also assembles them so that they can be considered as masses of individuals. From this starting point, which is purely social economic, a superstructure has been built up and is still building, which touches the entire life of the community in its social, economic, financial, material, and ethical life. Wherever man's value is apparent, there life insurance has its field. In the home, in the city, in the state, counting room, the factory, it stands ready to help man to more perfectly carry his responsibilities, which he has created. As an economic force, it reaches all departments of life. It reaches effectively where nothing else so far devised can reach successfully. It protects man's earning power and insures the continuity of that power whether man remains here or crosses to the other shore. It helps to lessen the army of unfortunate dependents upon the state, to lighten the ills of genteel poverty. It helps the young to get a decent foothold in the struggle of life. It is, in the realm of the individual, the fulcrum upon which to rest the lever of opportunity. Life insurance is a combination. It is individualistic, it is accumulative, it is material, it is social, it is economic. Despite all its shortcomings, it is the greatest economic factor of the twentieth century. It is developing at a marvelous rate, but it has not as yet caught up with its opportunity. There is need for more insurance, more people need its helpful influence. It is the flower of the struggle of self for others. No man who can secure insurance, and has not taken it, has fulfilled his whole duty. The life insurance agent who comes to ask a person to sign an application, is rendering a kindness. He is helping that person to become a more perfect factor in the development of human society. He is enabling him to more perfectly fulfill his relations to his fellows and to his country. Take life insurance as soon as possible, and it will be all the better if the taking of it involves sacrifice, for it is by sacrifice that the world makes progress.

## THE ESSENTIALS OF LIFE INSURANCE ADMINISTRATION

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BY HENRY C. LIPPINCOTT,

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Thirty-three years ago some seventy American life insurance companies existed in the State of New York, and within seven years thereafter about one-half of that number had disappeared. Had not the troubles of 1873-79 brought all enterprises, old and new, into severe stress, it is still highly probable that most of these companies would have failed; for many more companies were started in 1860-70 than were needed, and they lacked the great essential, proper management. We may safely make the broad declaration that while such management is not entirely certain to establish a new company, in any branch of insurance success is impossible without it; indeed, in cases where the new company maintains itself the amount and quality of the growth attained may be taken as the test of management. For example, there are several life companies which date back to the middle of the century, and yet, compared with some others that are younger, may be said to have accomplished nothing.

How essential proper management is may be strikingly shown by a brief reference to the crudity of the early ideas about the insurance of lives. Half a century ago, before the beginning of state supervision, the official reports made in New York by the few companies then in the field actually included in "liabilities" the face value of all policies in force. A sum of money which may become subject to demand some months or years hence, or may never become such, is manifestly not a liability for its face to-day; so this method of figuring not only produced a sort of balance sheet which did not balance but made every company insolvent, liabilities appearing in some cases to be ten times the assets. Whether the state comptroller required this form of statement, or the companies knew no better than to make it, or the importance of correct and luminous informa-

tion was not appreciated, we need not concern ourselves now to inquire. The last supposition, however, is the most probable; for the total outstanding insurance, in 1854, in the ten companies was not quite \$85,000,000, an amount less than is annually written now by each of a half-dozen companies; and, since we know that the dignity of life insurance and its destined position in human affairs had not then been even dreamed of, it may easily have been thought sufficient to have an annual memorandum of some particulars, which need not be complete or coherent. Yet there were great lacks in the knowledge of the subject then possessed by the companies themselves. In the earliest years of one of the oldest of these companies no attempt at strict medical examination was made, but the trustees looked the applicant over and guessed about his desirability. At one time an actuarial error was made in the same company which was so serious that it would have led to technical insolvency had the payment of dividends accordingly been persisted in. Even the mortality tables then existing were somewhat inconsistent and inaccurate; and the entire practice was tentative, the experience which alone can furnish the solid groundwork not having yet been obtained.

Notwithstanding, these pioneer companies felt their way along. And since life insurance was much better understood in 1871 than in 1854 the failure of new companies in 1871-80 cannot be ascribed to the undetermined state of the foundation principles. On the contrary, those principles were as firmly settled by experience then as they are now. This brief reference to the beginnings of life insurance is therefore made solely to bring out and emphasize the fact that companies have failed in the past, and may fail in the future, because of inefficient administration. Able men will not be so deficient in foresight as to attempt founding a new company when the time is not propitious; and even if the time is propitious the company will probably die young unless in competent hands.

Insurance of lives may be somewhat figuratively defined as the product of three factors: a rate of mortality, a rate of interest, and competent management. The problem in fire underwriting is to provide funds for the minority of policies which involve loss; the problem in life underwriting is to provide for every policy that is written. For since the actual ultimate mortality is 1,000 per 1,000, the outcome, in insurance parlance, is a total loss on every policy that is kept up, and a million dollars are demanded for every thousand

persons at \$1,000 each. The term "insurance," as commonly and naturally understood in its application to property, is therefore worse than inexact here; it is seriously misleading. Underwriting life is a process of accumulation. The early dying draw heavily from the common fund, contributing their own lives, while their heirs receive the commutation of those lives in money; those who survive late make up the deficits on the others, but get what advantage may be in longevity, so that the case equalizes itself.

In practice there is another factor: the expense rate, which is provided for by adding to the mortality part of the premium charge a percentage or "loading." The mortality tables are now known, and are a part of the common stock. A company may start to-day with substantially all the information on this subject which the oldest office possesses; but in the "selection" of lives—which determines how the actual shall correspond with the "table" mortality—there is room for important variations, and here the advantages are with experience. The rate of interest is not quite fixed, and the investment of funds is an exceedingly difficult problem, which, again, tests the quality of management. The expense, and its ratio of effectiveness in results secured, is also not fixed and in its turn tests the management. One may say that success in trading consists in selling great quantities of merchandise at a profit and avoiding losses, but saying this helps nobody to do it. We may likewise say that life underwriting is simple and easy, but the simple and easy things to say are complex and difficult to do, and every point of view brings us back to management as the prime condition of success.

If one imagines a body of one thousand men at age thirty, each of whom is certain to live to eighty, the problem of finding a premium rate which—at a given rate of interest and with the low expense that would be involved in such a case—would provide a million dollars for distribution fifty years hence would be very simple; the mortality part of the premium, at 3 per cent., need not exceed nine dollars. But in fact few of these men will reach eighty; some will drop away very soon; the number dying annually will increase during more than half of the term, then will decrease rapidly as the number surviving diminishes, but the ratio of deaths to the number surviving will rise uninterruptedly to the end. This, however, is fixed and true only on the average, and here let us note that "average,"



so constantly mentioned as the foundation of life insurance, means simply that lives are considered in the mass. The law of average runs through the whole like a confining chain, from which there may be individual departures, but these departures will ultimately offset one another. Thus, if the actual deaths in a given block of lives, in some year or years, run a little beyond the rate as established by observation, they will run below that rate in some other year or years. But one individual alone has no average; observation has not established, and never can establish, any conclusion about him except that he will die. We have, therefore, two foundation facts at the outset: first, that there is substantially precise knowledge of the *rate* at which a large number of persons will die; second, that no knowledge about their *order* of dying is possible.

This cannot be too distinctly understood or be made too emphatic at the outset, for these two facts lie at the very bottom of the foundation of life insurance. If all persons were certain to live to a uniform age, life insurance would be only a savings bank and could not exist distinctively. If every person's date of dying were known to everybody—if, for instance, it were stamped on his forehead—insurance would be impossible; for the early dying would be anxious to come in, but the ones favored of destiny would refuse to join with them. If his own fatal date were known to each person and concealed from all others, only the short lived would be willing to accept life insurance, and that is impossible without the aid of the others. The utterly insoluble uncertainty of how soon any healthy person will die is the sole fact that makes life insurance possible. However, the forms of contract may be varied and multiplied, and whatever stress is laid upon the "investment" or self-beneficiary side, life insurance is founded upon these two facts: that every person knows he must die, and that no person knows the date. This cannot be too clearly understood or too constantly kept in mind.

The organization of a company naturally and inevitably divides itself into six departments: executive, agency, medical, actuarial, legal and financial. Each of these represents work which must be done from the beginning. But the young company may start by adopting the table rates in use by others, and may employ a consulting actuary more or less; it may employ counsel, as others do, without engaging exclusive service; for a time, it may be more

troubled by lack than by abundance of funds to invest; its secretary or other officer may have an actuarial education, and in its early years one man may do the work of two, in kind if not also in amount, thus, not all the departments may be required at first, although the work of all must be performed in some way. As a company becomes large some of the departments may subdivide and specialize. For example, the financial department may develop divisions for care of real estate, for recording and keeping securities owned, for making mortgage loans, for making loans on collateral, etc. To liken this expansion to a tree, which puts out new branches while it also grows in size and the trunk which includes the rest also enlarges, is to use a very natural simile.

The business of the agency department is to get business, and it is indispensable. The vast development of insurance has changed the work of the agent in some respects. Speaking broadly, it is no longer necessary (as it once was) to persuade men to approve insurance, for its wisdom, expediency and necessity are now admitted. But men have still to be moved to do what their judgment approves; procrastination must be overcome, as ever; the variety of policies is large, and the question of form and amount is serious and not wholly easy; moreover, competition is active, and the agent finds a part of his work in defining and upholding the advantages of his particular company. In time past, newspapers have argued that if insurance were made attractive enough the public would come in without persuasion; but the best ingenuity and effort of the ablest actuaries have been expended upon attractiveness of contract, and yet men will not come unsought. Even if they did come, and if there were no agents, so many branch offices all over the country would be required to perform the work of filling out the papers and making the medical examinations that although the form would be changed the labor and expense of getting men in would not all be saved.

The agency department must begin as soon as the company begins, and must grow with its growth, for agency operations are the source and condition of that growth. At its head, of course, is a superintendent, with assistants, and it branches out over the field occupied. There may be a system of general agents, each having his geographical field which he works and manages, subject to the central office and dealing directly with it; or there may be branch offices in the largest centres, issuing policies direct, sharing some of

the powers of the home office and yet governed by it ; or there may be a combination of both ; the rule of compensation may be a commission, or salary, or both, etc. There is no hard or uniform rule. In these matters of detail each company follows its own plan, guided by its own and others' experience, aiming only at the most effective results ; but the agency system in some form is integral and permanent—it is the force which moves and makes the rest.

For many years and in many companies the general agency system has had the preference. Under it exclusive territory is granted, and the agent is responsible for the development of his field, being required to produce and maintain a volume of business deemed reasonable by his company, and to this end employing sub-agents and others, for whose conduct he is answerable. Such a general agent derives a pecuniary benefit from all business obtained within his district, no matter from what source derived, as, for instance, voluntary applications from those not solicited to insure. Permanence is its chief merit, enabling one to reap where he has sown ; and, in turn, permanence adds to standing, makes for character, and secures the most creditable representation. Latterly this system is being abandoned by the larger companies. Exclusive territory does not exist with them. An agent is free to get business anywhere, reporting direct to the company without any intermediary. This change has been in the interest of volume of business, permitting the employment of an indefinite number of agents. But it may be questioned whether the quality of the business has been maintained, the probability being that it has deteriorated in proportion to the number of untried and irresponsible solicitors thus introduced.

The direct physical examination of the prospective member is, of course, made by some physician conveniently near, but the medical department at the home office passes upon the papers submitted. Some contract forms have been recently proposed which waive medical examination. It may also be waived in specific cases (as in a recent reported offer to insure the members of a large society in a special industry in a mass), and in connection with annuities there is no occasion for it ; but, with these exceptions, no application goes through until the medical department has passed it. This work may be termed winnowing selection. The mortality tables are based upon observation of healthy or selected lives. If names were

drawn by lot from the entire population, the membership thus obtained would be below the standard; if candidates were accepted as they come, without any sifting, the result would be much farther below standard, for the poorest risks would be most prompt and sure to apply, thus exercising an unfavorable selection; if the company could draft men into membership, the selection would be at its best. The winnowing of those who volunteer for membership is intended to come as near as possible to the selection by this imaginary drafting. The applicant's physical condition, his own record, and his family record are considered, and then, by a sort of intuition or sixth sense (in which a few have been notably and inexplicably successful) the chief examiner decides, in some cases, that somehow he does not quite approve the risk. It is a maxim that the benefit of selection—in other words, the reach of this medical forecast—does not last beyond seven years, and the fluctuations of the law of average as to single individuals are illustrated by the fact that a few men die within a few months, sometimes within a few weeks, after passing the most rigid examination; nevertheless, this sifting is indispensable. The result of a favorable or unfavorable mortality experience is to make the accumulation process longer or shorter. The more delay in maturing of the policy, the more premiums can be gotten in; or, if the policy is already paid up, the more time is allowed to the fund for interest accumulation. A slow rate of mortality—that is, an increased average longevity—is therefore of the utmost importance. Increase this average, or increase the rate of interest obtainable, and the premium rate required diminishes; let the members die a little younger, or let the interest rate fall, and the premium must rise. And here, too, management, by which is meant capability, fitness and peculiar adaptation for the responsibility imposed, is essential to success. Imagine the absence of qualification and you will at once see how the well-being of the mass may be put in jeopardy and exposed to unreasonable and unnecessary death claims by an influx of lives below the standard, admitted through ignorance or indifference.

The actuary is as necessary as the medical examiner, and his work is permanently needed. He must take the mortality tables, the safe assumed interest rate, and the required loading for expense, and by combining the three must construct premium tables for

every form of policy. Moreover, it is his part to devise variety, flexibility of application and attractiveness for the contract; he must invent new forms of policy wherewith to meet competition. He must not merely match felt wants; he must intuitively anticipate the feeling and tempt the public with inducements which had not been missed. He must figure out the utmost advantages in options, paid up policies, and surrender values which can be conceded; he must be liberal on the one hand, and perfectly sure and safe on the other, for a blunder on his part might lead the office into issuing a line of contracts both impracticable and irrevocable.

Even a sketch of policy forms would take us too far afield, but I may point out that they divide into three principal groups: the ordinary life (the simple original form), which matures only at death and collects premiums until then; the limited premium form of the same, which is paid up in a fixed number of years; and the endowment, which matures at the end of a specified term or at death if that occurs sooner. The endowment may require premiums annually until maturity or may be fully paid up in a shorter term. Obviously, the lowest rate suffices for the whole life policy, but the smaller the agreed number of premiums the larger each must be. An endowment requires a high rate, for if it is to be paid in, say, twenty years, the money must be gathered in by the end of that term and the company must also bear the risk of earlier maturity by death; if the number of premiums is further limited, there must be a further increase in the amount of each. In all contracts of life insurance, excepting only term policies for a brief period of years, in which case the "reserve" is so small as to be inconsiderable, the premium contains what is known as the banking or self-insurance element; that is, the holder of an endowment or of a limited premium contract pays a part as the cost of carrying the insurance risk that the policy may mature by death and another part as contribution to making up the \$1,000 certainly at the agreed time of maturity. On the high premium forms, the temporary risk to the company is clearly less, since it is getting in money more rapidly; hence a man may often be accepted for a high premium form who would not be for the plain ordinary life.

Under this contract, however, the same process of accumulation goes on, the difference being only one of degree. One insuring under it, and surviving to age ninety-six, will have done three dis-

tinct things. He will have paid each year his contributive share of the death losses, he will have paid his just proportion of the expenses of management, and, equally vital, he will have accumulated a fund to his credit and for his endowment equal to the face of his policy. Briefly expressed, an ordinary life policy is an endowment maturing at age ninety-six should the insured so long survive. Correct forms of policies are essential; which is to say they shall be so drawn in consideration of such adequate premiums that the liability incurred shall be precise and definite, free from ambiguity, and that the funds to meet them will surely be produced from the aggregate of the premiums paid. And beyond these, the actuary must accurately, at the close of each year, calculate every item of present or contingent liability under all contracts of insurance issued, ascertaining the aggregate of such liabilities, and thus serve notice upon the financial department to have, or to get, the funds necessary to balance. He must compute the surplus available for division, and ascertain each member's share in the latter, whether this is done annually in the old-fashioned way or according to the later plan of deferring all settlements of surplus to the end of a specific term, usually fifteen or twenty years. Computing surrender values, or the amount at which the company will purchase a policy not yet matured, is also an important and delicate duty of the actuarial department. In the simplest case—that of an endowment—it is easy to discount, at a given interest rate, a payment due at a known future date; but on policies which mature at death the date of maturity is unknown and the conditions are less precise. In considering this, there are two factors which the public understand very imperfectly: the character of each member's interest in the common fund, and the effect of selection.

In dealing with life insurance men act selfishly, without regard to the welfare and rights of their fellow members. I have already explained that, if the medical examiner did not stand at the entrance gate, the weakest and least desirable lives would be surest and soonest to come in; similarly, if the actuary did not stand at the exit gate, the best and most desirable lives would be surest and soonest to go out—indeed, those who feel that they have become impaired always hold tenaciously to their policies. Once issued, a policy carries with it a periodic option to renew, and this option is always one-sided. The holder can decide not to continue, and the company

cannot prevent him; or he can tender his renewal premium and the company cannot refuse it, unless it is past due. Each member holds an option against all the others combined; but the others combined hold none against him. The selection as decided by each member in his own case is always against the company; that is, each one seeks his own interest, thus producing what may be called a hostile selection. This being so, it follows that while all the members of a strictly mutual company own all the assets—since they *are* the company—the interest of each is not absolute and divisible, as in a savings bank. In the latter, each may withdraw his deposit at will, because doing so does not affect the others; in the insurance company, each depends upon the others and therefore owes something to the others. Even the bank puts a penalty upon withdrawal by forfeiting accrued but undeclared interest; the insurance company likewise must protect itself by keeping part of the retiring member's share, while being duly mindful of what is justly his.

The matter of surrender values, of apportioning Tontine or deferred dividend shares at the end of the agreed term, and of dividend apportionment generally, is productive of more or less misunderstanding and dissatisfaction. As to the first, I wish to make it fully clear that the joint ownership of life insurance funds is peculiar; each member's share is both his and not his. Joining the membership was a tacit engagement on his part to remain to the end, and if he breaks this he must submit to some penalty; otherwise, the scheme itself might be ruptured by disintegration. Legislation in some instances has fixed a maximum penalty or surrender charge, thus preventing injustice in this regard, if this were the disposition; but the fact is that competition among the companies, attended by pretty full information as to what each does under any given circumstances, has evoked greater liberality than any law commands. It is within the knowledge of many how one company, enjoying an unenviable distinction for the payment of meagre surrender values, through publicity given its practices has now become most liberal and, as I think, has gone farther than equity permits. Companies now vie with each other as to the largest measure of liberality that may be extended those who voluntarily withdraw from their undertakings, and the danger is not that they will receive too little, but too much.

Companies which adhere strictly to the old plan of annual divi-

dends oppose the Tontine or deferred plan as being wrong in principle and subversive of the life insurance idea; they are, indeed, compelled to oppose it in self-defense, for the prodigious expansion of insurance in the last twenty years has been largely by pressing the investment or self-beneficiary view of the subject. The best argument for Tontine is that men have a right to prefer it, if properly explained, and that it has had the effect of diffusing life insurance as just stated; on the other hand, the temptation to overestimate (if not to overstate) the value of the results to be realized by members who survive and persist to the end of the deferred period, and the disappointments and bickerings which have occurred and must be measurably expected, are against the plan.

There are other objections more or less vital. Insurance has for its central and sustaining idea the care of widows and orphans, and one's own protection in old age. Take away this proper motive and the system, if it do not fail, becomes something else. It has by so much ceased to be insurance. When one sets out to buy insurance, if rightly informed he will get all that his money can command, and to this end all of his money will be thus applied. No part of it will be exposed to loss in consideration of prospective gain from the losses of others! Gambling is a harsh word, and the deferred dividend system has been so contrived and exploited as measurably to conceal its true operation; but gambling with surplus is truly expressive of its nature. Large returns, handsome profits, are the inducements, while little or nothing is said of the sources from which such gains are derived nor the hazard to which each member of the class is exposed. Such a plan appeals most strongly to one of the worst sides of our human nature—an instinctive, and maybe perfectly natural, desire for something without an exchange of equivalent value. One fact here stands prominently in relief. This appeal to cupidity has tremendously aided in the diffusion of life insurance. It seems to be a case of good following evil; and upon the theory that life insurance is worth all it costs to those who have it, the system may have served a useful purpose pending public enlightenment. When, however, the fact that some companies under the annual dividend system, without exposing their members to any loss of surplus, have produced results for their members exceeding those where the hazard of death or lapse imposed such losses—when, I say, this fact is brought home to the insuring public, there will be



an end to the deferred dividend plans, an end as well to the vast accumulations incident to it, and the long train of extravagance and kindred abuses which have sprung therefrom. State law has intervened to prevent forfeiture of the reserve interest of the lapsing member, but law has not assumed to interfere with the apportioning of dividends by the company's management. In a leading case in which a member who was dissatisfied with his share in the distribution sued for what he figured was the just amount, the New York Court of Appeals in substance held that the apportionment rests with the company, not with the member. If each member could figure out his own share of a divisible fund, and could then thrust in his arm and take it, he could as justly decide that what had not yet been declared divisible ought to be; the most assertive and active members would thus secure a preference, and the entire assets might not suffice to go around. What is not practicable cannot be equitable. Somebody—and so the Court of Appeals held—must be vested with the power of deciding what portion of the fund is properly divisible at any date, and of apportioning this with regard to the rights of all the members and not merely of a few. The collectors and custodians of the fund must, therefore, distribute it. Can we trust them? This question is equivalent to asking, Can we trust anybody? and the conclusive answer is, We must. A purely mutual company, devoid of even the complication of a capital stock, is simply and wholly this: a common fund belonging to many thousands of persons who do not know so much of one another as names and residences, this fund being held in trust by a few men who manage it in the interest of all. They should so manage it, unquestionably; but will they and do they? It is plain that if they allow one member too much they must draw the excess from the rest, and that they can have no motive to take from one to give to another; their central position as trustees and arbitrators imposes on them the duty of impartiality and leaves them no inducement otherwise. But may they not pinch and deal hardly with each member in turn, in the interest of the entire fund? There is a constant effort for more business and more assets. There is such a thing as a lust for money, even for trust money, and it is conceivable that the managers—let us be exact and say some managers—may be so enamored of hundreds of millions as to jealously seek to restrict disbursements too much. But this is an admission for the argument's

sake. Putting the matter on no higher ground than that of expediency, there is no reputation more delicate, more valuable as an asset, and more carefully guarded, than that of a life insurance company. The managers are fallible men, but they are keenly alert to the necessity of fair play.

Little need be said of the legal department. Its work includes the conduct of cases in court, the investigating of questionable claims, the phraseology of policies and other contracts, and the wide variety of matters which require expert advice. Practically, nine-tenths of the work of the legal department is centred in the investment or financial department. Is that bond properly drawn? is this title to property proposed to be mortgaged clear and indefeasible? are we pursuing proper remedies for the collection of our debt? are we likely to cloud our title or jeopardize our position by our leniency to debtors? are some of the questions indicating the scope of this work, which, well or poorly done, finds its expression in the result to policyholders. It is essential to successful achievement that a high order of talent united with equally high integrity shall be employed. A company which is large enough to maintain a legal department of its own will certainly have enough proper and legitimate work for it.

The function of the financial department is to take the funds which others bring in and make them increase. Life insurance is founded upon the improvement of money at an assumed minimum rate of interest. The compound interest tables are figured upon investment in advance, with no loss of time whatever, and with no loss either of interest or principal. No capitalist, individual or corporation ever did or can fully realize these conditions; the shortages by failure to realize them are covered in the excess of the actual over the assumed interest rate, but it is the test of a company's financiering to come the nearest possible to this. The most permanent investments are securities and real estate owned; the next permanent are mortgages; none is safer and more profitable than loans on policies, although there are some objections to these, outside of the investment view; the fluctuating investments are collateral loans and cash in bank. The last named is an intermediate halting place of money, and it commands a low rate of interest there which varies with the state of the markets and the size of the account.

Manifestly, securities owned should be dividend paying; but if

a company did not take advantage of a depression in the markets, which pulls down the most substantial things also, its financiers would deserve a less complimentary name. To correctly judge the real substance behind securities demands special ability of a high order, and no better tribute to the financial handling of American companies could be asked than the fact that they have rarely been caught in bad investments. There have been some instances, for all men are fallible; but in the life insurance field they are few.

The executive department comprehends all the others in being their superior in rank and responsible for their composition and results; it is the great central ganglion from which the impulse of energy proceeds. From this centre the growth of the company extends outward, in that the executive department determines when additional branches are needed for the work and what directions they shall take. To say this in no degree detracts from the importance of the others; it only states the natural arrangement of organization. If we look to the government of the United States for an analogue we find it approximately, but in life insurance the executive department is also legislative and judiciary, being necessarily a governing body in all directions. To represent it as literally an autocratic one-man power would not be accurate, for co-operation and division do exist in the administrative life; yet there is a finally directing head.

If I have been followed thus far, I have been anticipated in saying that the essentials of life insurance administration are ability and integrity, for all outlining of the difficult and complex functions of the work performed leads to this: that ability of a special kind and a high degree is indispensable. There must be ability, or there can be no construction; there must be integrity, also, or the construction will disintegrate before it has proceeded very far. Life insurance does not grow of itself; it is not self-moving. The managing position is not one of dignified ease—merely to accept business brought in, sign necessary papers, and preside at the table in the board room, as some excellent gentlemen who had not succeeded in mercantile life seem to have imagined forty years ago. If the man at the centre does not have his coat off literally he must have it so figuratively. Following a well approved maxim, the able executive does no clerical work, nor does anything himself which he can find another to do for him; yet just here comes difficulty and test, for he must

fit men to their places. By what means shall he do this? Not by trying them and throwing them aside as they are found wanting; the business cannot allow being made the subject of such experiments. He must know men by some intuitional or sixth sense, which neither he nor any other can explain or understand. Some men who have been exceptionally successful in soliciting have an inexplicable faculty resembling this—the power of influencing others. The sketch must not be overdrawn, for life insurance must be managed, as other operations must be, by human and fallible men who make mistakes; yet it is true that eminent ability is required, and the success of American life insurance proves that it is found.

To reach out after, receive, care for, cause to fructify, and disburse the funds of others—this is the sole function of life insurance. In a mutual organization the funds are exclusively trust funds. The trustee's task in the disbursement is even more delicate, if not more difficult, than in other handling. He must guard the fund against bad legislation, bad state supervision, and against the open or secret attacks of all who are attracted by its size and apparent exposure; this he must do as best he can. He must keep in check the greedy member who would like to help himself. He must defeat the fraudulent claimant. He must keep in the middle of the road between liberality and parsimony, always attaining safety. He must pacify members who feel disappointed, resist those who are unreasonable, and do his best to leave no opportunity for misunderstandings and unfounded expectations. He must look warily forward, always on his guard lest he fall into some error which may prove the seed of trouble hereafter.

In a mutual company the trustee at the centre owns nothing except his individual interest as a member, and is not entitled to anything beyond his reasonable salary, except such honor as he earns. There is a persistent notion that some salaries are excessive. But administrative ability is in keen demand and short supply; only the best suits life insurance, and to accept anything less would be intolerably bad economy. There is also a persistent notion that claimants are viewed with unfriendly eyes and oppressed whenever possible; the fact is just the reverse. The claims even temporarily demurred to are an insignificant fraction of the whole, and those unjustly resisted are fewer than those which are bad in morals, or in law, or in both, yet are paid because of expediency. This

unfounded prejudice against life insurance upon the side of claim settlements, and the persistent habit of juries of assuming that the company which comes into court is in the wrong, are the encouragement of those who attempt fraud. Sometimes the attempt succeeds, because it may be a question whether resistance or settlement will better conserve the trust. In one of the most famous cases, not finally disposed of until about a year ago, the company which refused to pay a plainly fraudulent claim and expended in defense much more than compromise would have cost, was right; the companies which wearied of the disagreeable fight and ended it by compromise were also right. The rule of expediency is sometimes the rule of duty, and we may fairly take diverse views of either in particular cases.

It is somewhat difficult to speak calmly of the statutes respecting life insurance and the official treatment applied to it by states. These seem to be placed upon the theory that this great institution is among the necessary evils, and tolerable only when in bonds; that company managers would abuse their trust and oppress the public, in order to enrich themselves, were they not closely followed and watched. No intelligent man accepts such a proposition when it is put into a concrete form; yet if the unfriendliness of statute and supervision is justifiable at all it must be because life insurance is assumed to be dangerous except under restraint. On the contrary, its safety and expansion are more in spite of than because of the attempts of states to intervene lest wrong be done; and for relief from a burden, which is certainly not becoming less intolerable, we must look to a gradual enlightenment of public opinion on the subject.

In conclusion, I am conscious that life insurance may sometimes be painted in somewhat too high colors by its enthusiastic spokesmen. It is not, clearly, the most altruistic, or most beneficent, or most indispensable, or most perfect, or even the most certainly remunerative as an occupation, of all human employments; or at least, let us say, not necessarily and always so. It has its trials, its imperfections, its mistakes, its spots which show against the general whiteness. Speaking of it without exaggeration compels us to admit that the men engaged in it, from bottom to top, are not demigods, but men like ourselves. Criticism is not to be warned away from them; but it should use the pen point discriminatingly, and

not smear as with a brush. That administration which has succeeded before our eyes certainly has the great essential of ability; as for the other great essential of integrity, while the consciousness of duty and of fidelity to trust may not in every case be ideally high, it is at least well up to or above the average. We may justly give honor and gratulation to American life insurance.

## POLICY CONTRACTS IN LIFE INSURANCE

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### I.

#### *Correlations of Policy Contracts.*

Life insurance practically had its origin in a contract between two or more parties that was in the nature of a wager. The payor of the premium would win if the insured died within a given period, and the insurer would win if the insured survived such a period.

The first record we have of such a life insurance contract shows that it was made June 18, 1583, in favor of Richard Martin, citizen and alderman of London. The subject insured was one William Gybbons, and the contract practically amounted to a wager between Richard Martin and thirteen merchants of the city of London. Martin paid the thirteen merchants about £30. If Gybbons died within twelve months, then the thirteen merchants agreed to pay about £400. While this was a wager transaction, and would now be void in law, it was, in a manner, the beginning of life insurance contracts.

A policy on the life of Nicholas Bourne, dated November 25, 1721, issued by the London Assurance Corporation at the request and expense of Thomas Baldwin, is the second authentic record we have of an early life insurance contract. An interesting feature of this contract is that it would meet the necessities of the Second Adventists, whose considerations of life insurance are disturbed by the prospect of being translated and thus leaving behind them no evidence of death. The policy provided that "in case he, the said Nicholas Bourne, shall in or during the said time, and before the full End and Expiration thereof, happen to dye, or decease out of this world by any Ways or Means whatsoever, That then the

above said Governor and Company will well and truly satisfy, content, and pay unto the said Thomas Baldwin, his Executors, Administrators or Assigns, the Sum or Sums of Money by him Assured, and here underwritten, without any Allowance, Deduction, or Abatement whatsoever." The only condition of avoiding the contract was going to sea or into the wars without written consent.

Another old contract of which we have a record is on the life of the Right Rev. William Carmichael, Lord Bishop of Clonfert, dated June 27, 1754. The insurance was effected by and for the benefit of George Cockburne at the rate of \$5 premium for each £100 insured. Suicide, or death by the hands of justice, or going outside of his Britannic Majesty's dominions of Great Britain and Ireland without first obtaining license in writing voided the contract.

A contract of life insurance must now be supported by a legal insurable interest. That is to say, when the insurance is effected by any person other than the insured the beneficiary must have an interest in the continuance of the life of the insured and not merely a monetary interest in his death.

While it is not my province to discuss the actuarial and scientific questions involved, it is proper to say that the discovery of the law of mortality susceptible of mathematical calculation made it possible to supplant crude guesses at the chances of life and death by tables constructed from mortality observations.

The contracting parties under the policy are usually designated in this country as the insured, the subject upon whose life the policy is written; the insurer, the one who assumes the obligation to pay the insurance; and the beneficiary, the one to whom the insurance is paid in the event of death. There are, therefore, usually three parties to a policy contract.

Individuals under modern methods do not act as insurers. The laws of the several states have provided for the incorporation of insurance companies which have perpetual succession. Individuals die, but properly managed corporations are supposed to live always. The powers of a life insurance company under the statute usually consist of effecting insurance upon the lives of individuals, every insurance appertaining thereto or connected therewith, and the granting and purchasing of annuities. The companies are authorized to make by-laws for their government not in conflict with the laws and constitution of the state in which they are incorporated,



or of the United States. Full liberty and freedom is, therefore, vouchsafed to the life insurance company in the making of contracts with a single requirement applicable only to companies known as old line or legal reserve companies. This requirement amounts to a standard of safety adopted by the state, which provides that whatever the policy contract may be the insurance company must always have in its coffers money or securities equal to the difference between the present worth of what it promises to pay, and the present worth of the net premiums the insured promises to pay, which difference is known as the reserve. Beyond this the state wisely does not undertake to interfere with or handicap the companies. While this latitude or license has probably in a degree been abused, it has given the public a great variety of policy contracts from which to select; and as the insuring public is becoming better informed and able to discriminate between the sound and unsound, such latitude or license is becoming less objectionable. Indeed, by reason of the ever changing conditions it is infinitely to be preferred to any attempt at circumscribing legal limitations to policy contracts.

*Origin and Definition.*—The word policy means in general a course or plan of action or administration. During the Middle Ages it was used to designate memoranda. In England it has been applied to “a warrant or ticket for money in the public funds.” In the United States it is applied to a gambling game. Among these varied definitions and uses has arisen its universal employment to designate comprehensively a written instrument embodying a contract of insurance involving, as it does, contingencies and probabilities. In life insurance a policy contract is, therefore, one involving the contingency of death, in which the minds of the parties thereto have met and agreed upon the terms and conditions of the underwriting.

*Significance and Importance.*—The taking out of a policy of life insurance signifies a sense of responsibility, frugality and thrift on the part of its owner. Under existing social and economic conditions the life insurance contract has become a necessity. The man who assumes the responsibility of a family and of engaging in business needs protection, in the event of his early death, for both. The insured or owner of the contract often derives substantial benefit from the self-denial and formation of the frugal habits acquired by the preparation to meet the periodical payment of premiums. He

is also benefited by the consciousness that he is creating an estate to benefit his dependents, which, in the event of his death, becomes immediately convertible into cash without the intervention of administrator, executor or attorney. It is generally conceded by the trust officers of our great trust companies that there are no securities left by decedents of as great general value, because of not being affected by market, etc., as are policies of life insurance. It is only in cases of gross fraud or where the rights of beneficiaries are disputed that any contest is made by the companies. For example: according to the sworn returns of 1902 and 1903 the total existing contested claims, representing an accumulation of years, amounted to only \$668,200, while the claims paid during the same years by the legal reserve companies represented \$367,035,413. Thus the accumulated contests represented only one-fifth of 1 per cent. of the amount of claims paid in two years; or for every \$1,000 paid, only two dollars were contested, and it is safe to say that currently not more than one dollar out of every \$1,000 paid is contested.

For the beneficiaries of such contracts it signifies the means of support after the decease of the breadwinners; it means escape from the pittances or charities of the world.

To the state life insurance signifies a much reduced poor rate for the maintenance of almshouses and eleemosynary institutions.

*Magnitude of Interests Involved.*—At the beginning of the nineteenth century, according to the best authorities, there were not exceeding one hundred life insurance policies in force in the United States. December 31, 1903, excluding beneficial societies, there were 19,405,107 policies reported as outstanding and in force. These were divided as follows: 4,684,578 of the ordinary legal reserve type, representing \$9,473,427,277 insurance, with a premium income in the year 1903 of \$349,480,332. There were payments to policyholders in the year 1903 of \$194,110,368; assets amounted to \$2,055,555,548, and liabilities to \$1,794,239,797. The industrial, fraternal and assessment types of policies, at the same time, December 31, 1903, numbered 14,720,529, representing \$3,019,963,655 insurance. The premium income in 1903, under these types of policies, amounted to \$105,138,307, and payments to policyholders to \$36,311,568. Assets aggregated \$221,891,857, and liabilities \$185,698,422. Hence the total sum insured under the four types of policies represents \$12,493,390,932, with accumulated assets of \$2,277,447,405.

The magnitude of the interests involved is so great as to be practically incomprehensible. In order to give an indication of their significance it is necessary to make some comparisons. The combined capital of all the national banks in the United States amounts to \$688,817,833; the deposits in all the savings banks of the United States aggregate \$2,935,204,845, by 7,035,228 depositors; the capital in all the manufacturing industries in the United States amounts to \$11,797,783,800, with 5,500,000 wage earners in the factories; the total railroad capital in the United States amounts to \$12,599,990,258, with 1,312,537 railway employees.

It will thus be seen that about one-fourth of the population is directly and about three-fourths indirectly interested in the subject of life insurance, and that the underwriting is about equal to the entire railway capital of the United States, and exceeds the capital of the manufacturing industries. The time has come, because of the magnitude of the interests involved, for a better understanding on the part of the public of policy contracts in life insurance.

*Motives in Framing Contracts.*—In order to get at the motives we will take up the considerations involved in the framing of a policy contract. It is, no doubt, true that policies have been framed with temporary success, having quick returns to the managers as the principal consideration; schemes could be cited in illustration of this statement. I shall, however, not undertake to cope with or discuss dishonest schemes, but shall address myself to the difficulties involved under honest and legitimate projects.

The consideration of first importance is so to frame the contracts as to perpetuate the existence of the corporation. To this end due consideration must be given to equity and justice, and to protection against dishonesty and fraud.

A policy may be loaded down with unnecessary restrictions. In the earlier days of life insurance, when observations had not been made of the various supposedly hazardous conditions, it was attempted to avoid them by policy restrictions. Many of these have been found to be unnecessary. Some of them are needed, and in a modified form should be retained in the interest of a sound, wholesome public policy and of equity to all policyholders.

While the motives involved in business getting cannot wholly be ignored, they must be subordinated to the rules of good business, sound public policy, equity and justice. It will not do for those

who have the framing of a policy contract to "play to the galleries" by a show of liberality, and thus secure public applause at the expense of policyholders.

*Inception and Basis.*—The beginning of a policy contract is a proposal in the form of an application for life insurance. In such application the applicant is required to make a detailed statement of his personal and family history, and such statements are usually made the basis of the contract. If the insured makes material misstatements, he is very much in the same moral position as anyone who obtains a thing of value under false pretenses. Banks, business and manufacturing concerns and individuals alike are protected under the laws against that class of people who do not hesitate to indulge in false pretenses. Notwithstanding these general facts, in some states life insurance companies have practically no protection. An applicant in such states may, with malice aforethought, misrepresent a material fact, and because of a prejudiced and pernicious public sentiment, which has invaded the courts of justice, the insurance management will sometimes pay rather than take the chances of greater loss in contesting a claim believed to be fraudulent. At best the binding obligations are all on the company, and both the insurance departments and the courts stand ready to enforce them, while the insured may at will discontinue the contract.

The public sentiment of which I have spoken largely ignores the fact that insurance is effected by the money of the policyholders of the company; that, literally, the policyholders are the company, and the officers are merely the managers. It is in part due to a condition which obtained after the Civil War in the seventies, when many companies were organized by men who knew absolutely nothing of the science of underwriting, and whose numberless blunders forced them to the last expedient of trying to perpetuate the existence of their companies by evading the paying of claims. While these companies ceased to exist many years ago, and while, if anything, the companies at present err on the side of liberality and promptness, the sentiment referred to remains in a modified form.

The application should and usually does contain a warranty clause in which the applicant warrants the truth of his statements that form the basis of the contract. If any material statements therein are found to be untrue, then the contract, according to its terms, may be voidable or become *ipso facto* null and void, and all

payments, except as expressly provided therein, are forfeited to the company. The rule, however, is to make the policies incontestable, except for the non-payment of premiums, after from one to two years following the date of issuance. Under the head of policy restrictions I discuss in some detail the incontestable clause.

*Execution and When Operative.*—Before execution of a policy contract the medical and inspection departments of the company carefully investigate the statements made by the applicant. They determine whether the applicant is insurable, and if so under what conditions. The applicant's financial ability to pay the premiums is also considered. Upon proper certification the executive department executes the contracts. The policy, however, as a rule, does not become binding or operative until delivery to the applicant and acceptance by him during his life time and good health, and the actual payment of the required premium.

*Title to Policy.*—The title to the policy may vest in the insured or in the beneficiary, depending upon the terms and conditions of the contract. If the insured under the terms of the contract has the right to change the beneficiary, then the latter has a contingent interest only, which does not become vested until after the death of the insured. Hence, under such a contract the title vests in the insured because he can, at any time, substitute his own estate or another beneficiary for the one originally named. If, however, under the terms of the contract the insured cannot change the beneficiary, then the title to the policy vests in the latter and can only be transferred to another by assignment.

Under the laws of most of the states a policy of life insurance, made payable to wife and children, is not liable for the debts of the insured, and hence, though the insured may be insolvent at the time of death, the creditors cannot get any part of the insurance money unless it can be shown that the policy was contracted for after insolvency and that the contract was made to avoid the payment of debts and to defraud creditors.

*Consummation.*—A life policy is not consummated or completed until it either expires by limitation or by maturity at the end of a stated period, or by the death of the insured. In the last event proof of death and of claim, as required by the contract, must be made to the company. While many policies provide for the payment of the money within a limit of thirty or sixty days, it has

become the custom of practically all the companies to pay the insurance money as soon as satisfactory proof of loss and claim has been made.

*Legal Construction.*—It is an established principle of the law courts to construe contracts against the framers or makers, on the ground that they are familiar with the technicalities of the law, and are presumed to frame the contracts in their own interest.

In construing contracts, in case of apparent conflict between written and printed clauses, preference is always given to the written clauses.

Notwithstanding the disposition of juries to favor individual claimants against corporations, and the disposition of the courts to construe the contract against the makers, it is a fact worthy of note that more than 75 per cent. of the litigated cases are won by the companies. This is due to the further fact that the companies will only resort to a contest in most flagrant, fraudulent cases.

## II.

### *The Relation of Method to Life Contracts.*

*Variety of Life Contracts Due to Method.*—There are four methods legally recognized and mentioned under this section, each of which has its distinctive features. The distinctions between the methods are legal, mathematical, practical and, in part, due to prejudice and custom. Because of the distinctions mentioned, the form of contract adapted to one method would not be suited to another method. This has given rise to a much larger variety of policy contracts in life insurance than we should have if there were but one method. While the system of life insurance may be said to be one, the methods are many.

*Ordinary Legal Reserve Method.*—This comprehends the classification of companies which are by law required to maintain a reserve at all times equal to the future deficiency in the premiums, so that the fulfilment of the policy obligations is guaranteed. There are probably as many as one hundred and fifty different varieties of policies issued by companies of this classification. It would be impracticable to attempt to enumerate them all, but I will mention the principal policies:

1. The Ordinary or Whole Life Participating Policy.—Premiums continuous during the life of the insured; dividends applied to reducing premiums or increasing the insurance; insurance payable at death only.

2. Limited Payment Participating Policy.—Premiums limited to a term of years; dividends as in (1), or payable in cash at the end of the term; insurance payable at death only.

3. Endowment Participating Policy.—Premiums payable during the specified term; dividends as in (2); insurance is payable at the end of years specified or at death if prior.

4. Non-Participating Policy.—All of the several forms mentioned are issued at a low rate of premiums in lieu of dividends.

In addition to the several forms of policies referred to there may be mentioned joint life or partnership, renewable term, term, instalment, single premium or paid-up, tontine, semi-tontine and a great variety of deferred dividend policies variously designated as accumulation, allotment, survivorship dividend, tontine dividend, etc.

*Industrial Legal Reserve Method.*—The variety is practically limited to the standard life and limited payment policies at premium rates considerably in excess of those charged by the ordinary legal reserve companies. This excess is due to the fact that the companies issuing industrial policies collect the premiums weekly—sometimes monthly—by collectors who go from house to house. By reason of the large premium charged policies of the industrial variety contain but few restrictions.

*Fraternal or Lodge Method.*—These contracts are in the form of certificates of membership, and usually provide for the suspension of a lodge in case payment is not made by the subordinate branches to the supreme body. Although the individual member may pay his dues and assessments promptly, if the lodge to which he belongs fails to pay he must suffer suspension. The rights of the individuals are subordinated to the conduct and will of the majority.

The contracts usually specify a maximum benefit, and are not in a legal sense guaranteed beyond the proceeds of the assessments collected from the lodges to pay the losses. The variety is usually limited to certificates in which payments of the member continue during the life of the contract.

As a rule very few restrictions are imposed.

*Assessment or Non-Legal Reserve Method.*—Under this method

provision is made to effect the insurance by currently collecting from the members a specified or determinable amount to be paid periodically. Originally this form of contract usually specified that, in the event of the death of the insured, the beneficiary should receive the proceeds of an assessment not exceeding a maximum sum specified. Later the form was modified so that the sum payable at death should be fixed and certain, while the amounts to be collected from the members become variable and uncertain, depending upon the mortality experienced. The variety is limited to the type of policies not requiring large accumulations for their fulfilment, and under which the payments of the insured are coterminous with the life of the policy. The restrictions and conditions, with the exception of the non-forfeitable and accumulation features, are in effect the same as in the policies of the legal reserve class.

### III.

#### *Conditions, Privileges and Restrictions.*

*Primary or Fundamental Conditions.*—The truth of the statements contained in the application must be a condition precedent to the issuance of the policy. The payment of the premiums when due is fundamental to the continuance of the insurance. Provision is generally made for the revival of the policy in case of default in the payment of the premium if the insured be in good health. The requirement of legal and proper proof that the contingency insured against has happened is also fundamental. The company that will pay a policy without due and proper proof of death and claim is recreant to its trust.

*Conditions Imposed by Sound Public Policy.*—Sound public policy limits the insurable ages to the productive period of life, and requires policies to be non-forfeitable for any payments in excess of the current cost of insurance, allowing the companies a small margin for contingencies. It demands a clear and distinct statement of the respective rights of the parties to the contract with reference to the division and disposition of surplus. It requires policies to become incontestable within a reasonable time from date of issuance, except for failure to pay premiums when due, and imposes restrictions in the interests of the general public, such as



will discourage and prevent fraud and crime. Suicide, which will be discussed under policy restrictions, is an important feature of life insurance as related to public policy.

*Conditions Imposed by Equitable Considerations.*—These require the policies which have been issued to be kept, as nearly as practicable, in the same classification of hazards. If the insured voluntarily assumes a hazard known to be great, and not originally contemplated in his contract, the burden of it must either be borne by himself or by other policyholders. Equitable considerations require that every insured should bear his just proportion of such burdens. Hence in the case of military and naval service during time of war the extra premium involved by the war hazard should either be paid by the government served, or by the insured, or the policy should be proportionately scaled. Equitable considerations also demand that an extra premium should be imposed on persons who reside or travel in certain portions of the tropics where the death rate is fully twice as great as that upon which the premiums are based. A further and very important consideration, but much neglected, is that every policy should be made to pay its own way, including the expenses of writing and placing it. The policy should be so constructed that the premium loading the first policy year is sufficient to pay the expense, and the loading in the subsequent policy years should be correspondingly reduced. The surplus belonging to those already insured should be apportioned to them, and should not be diverted to the payment of expenses incident to obtaining new business.

*The Significance of Privileges.*—In a great many policy contracts conditions and restrictions are referred to as privileges. This use of the word privilege is rather difficult to reconcile with the general proposition of law that that which is not prohibited and comes within the purpose of the corporation is permitted. Therefore, unless a policy contract first limits and circumscribes, there is absolutely no significance to privileges. For example, to say, when there is no limitation as to travel, that the insured has the privilege of traveling or residing in any part of the known world signifies absolutely nothing, as that privilege is granted by its not being prohibited.

*Privileges Implied But Not Expressed.*—It may, therefore, be accepted as guiding principle that within the limits of the powers of

the maker of the contract, whatever is not restricted, forbidden or prohibited is a privilege implied although not expressed.

*Classification of Restrictions.*—I have classified the important conditions and restrictions of fifty-one companies. These companies are representative, and the result of the classification clearly indicates the principal policy conditions among the American life insurance companies:

1. Only eleven of the fifty-one companies formally announce accepting risks over sixty.

2. Thirty-seven accept women on the same conditions as men; thirteen require extra premiums or restrict them to certain policies and one company refuses to insure them.

3. Thirty-eight companies voluntarily attach copy of application to the policy, thus giving to the insured a complete contract, and thirteen only do so when required or when the law requires it.

4. All companies have a provision in the policy that it shall not become effective and binding until delivered during the lifetime and good health of the insured and after the required premium is actually paid.

5. Seventeen have no restrictions with regard to occupation after the policy has once been issued; eight have a restriction imposing a penalty if the insured engages in a more hazardous occupation than the one stated in the application; twenty-six have restrictions limited by some to the first policy year and others to the first two policy years.

6. Thirty-five companies have restrictions in regard to military and naval service in time of war, requiring a permit for which an extra premium must be paid or providing for the scaling of policies; six have such restriction for either one or two policy years and ten have no restriction.

7. Nineteen have a suicide clause for one year; twenty-five for two years; three for three years; one without limitation, and three have no restriction.

8. In the matter of dueling and violating law thirty have no restrictions; six have them for one year; twelve for two years; two for three years and one constant.

9. Forty-two have no provision against intemperance; two have it for one year; four for two years; one for three years; two for five years, and one constant.

10. Twenty-four companies have no restriction as to residence and travel; nine have it for one year; fourteen for two years, and four constant.

11. Two companies have no incontestable clause; two stipulate incontestability from date of issue; seventeen after one year; twenty-seven after two years; two after three years, and one after five years.

12. The policies of nine companies provide for no days of grace for payment of premium; those of forty-one companies provide thirty days, and one company six days.

13. Fourteen companies make no provision in policies for reinstatement or revival in the event of lapse, but reinstate merely as a matter of grace; sixteen companies make it a matter of contract without limiting the time; ten limit within a year; three two years; two three years; six five years.

14. All companies have some non-forfeiture provision after two or three years by way of loan, or paid-up or extended insurance; four provide cash surrender values after two years; twenty-nine three years; six five years; eight at periods specified in the contract; four no cash surrender values.

15. Six companies pay dividends annually; six annually after the second year; four annually after the third year; four annually after specified periods; nine annually after five years; twenty-two at stated periods or dividends deferred.

16. Forty-four companies provide for the payment of claims immediately after the receipt and approval of proofs of death, and seven specify payment within thirty or sixty days after proof.

*Consideration of Each Class.*—I will consider the classes, as given in the above classification, in numerical order:

1. Insurance, as a matter of protection, should be limited to the productive period of life, or to between ages fifteen and seventy. If an aged man applies for insurance, and pays the premiums himself as a means of investment and a method of increasing his estate, then there is no special reason for limiting the age on the level premium, or reserve method, of life insurance. Unfortunately, however, a great many aged persons have allowed themselves to be used as subjects for speculation. The astonishing part is that a selfish, unnatural and depraved desire should sometimes develop on the part of sons, daughters and sons-in-law to insure their fathers and

mothers under the assessment or cheaper method in the hope of financial gain from a speedy death.

Between the years 1880 and 1884, in the State of Pennsylvania, upward of two hundred assessment associations were organized for the purpose of speculating in aged human lives. Through the efforts of the legitimate life insurance companies and associations, the pulpit, the press and the bench, public conscience was awakened, and a law was passed in 1883 which put the speculators in human life and the organizations through which they operated out of business within a year. This chapter in the history of life insurance has resulted in the refusal by most companies to insure persons over the age of sixty unless the policy be of the investment type, and the further refusal to issue a policy if any person other than the insured seeks to effect the insurance or pay the premiums.

A man under proper policy conditions cannot, and would not if he could, speculate on his own life, and, therefore, when he himself furnishes the money to pay the premiums the transaction is legitimate at any age and free from the suspicion of speculation.

2. Repeated mortality investigations have established beyond any question of doubt that, when the speculative and moral hazards are eliminated, women are as good risks as men, if not better.

While there are still companies which charge women an extra premium of about \$5 per \$1,000 insurance yearly, most of the companies overcome the hazards by limiting the beneficiaries to minor children or dependents. Such companies have had a satisfactory experience in insuring women.

3. Twenty-four years ago the Commonwealth of Pennsylvania enacted a law requiring a copy of the application, or any instrument referred to in the policy as a part of the contract, to be attached. Other states have done the same. This is a wise and proper provision and is being carried out voluntarily by many companies in states where it is not required. This law and practice are the outcome of litigation. In cases of contest claimants frequently have not learned until coming into court that a breach of warranty actually existed. It is true, however, that no company would have refused claimants a copy of the application prior to litigation; and it is also true that the knowledge of the contract given by the attached copy of the application does not deter ambitious attorneys from attempt-

ing to enforce payment of claim even in case of material breach of warranty.

4. The provision in all policies, that they shall not become binding until delivery during the lifetime and good health and upon actual payment of premium, has become, under the methods in vogue, an absolute necessity. Courts have even held that in the event of a change in the physical condition of the applicant between the date of application and the delivery of the contract the warranty is continuous, and that it is the duty of the applicant to give notice to the company of the changed conditions before accepting the contract.

Where no consideration has passed, where the agent has not given a binding receipt to put the policy in force as soon as the risk is accepted by the company, such decisions as referred to seem just and right. The applicant for insurance, until he has actually made payment of the premium, is in a position to temporize and procrastinate. He often does so, and as a matter of justice his delay should be at his own risk and not at that of policyholders.

5. Restrictions with reference to occupations have been materially modified or entirely dispensed with during the last two decades. All companies at the inception of the contract take into account the hazards of occupations and impose conditions or rates to cover them, but it is so rare for men to change from less to more hazardous occupations that the majority of the companies, especially after the first policy year, have removed all restrictions, and this is particularly true under deferred dividend policies.

6. It has often been said, "In time of peace prepare for war." The long continued peace seems to have impressed a number of companies with the idea that there is no need of being prepared for war. Such companies have removed all restrictions with reference to military and naval service. In the statistics of war hazards there is no justification for doing this. In the late Civil War, as well as in European wars a generation or more ago, the proportion of the insured to the general population was so small as to produce no serious result to the companies, even if they had no policy restrictions. This condition has been changed; about one-half of the male population is now carrying insurance of some kind. In case of a general or extensive war the companies without restrictions might be wiped out of existence by a few battles. Hence, the removal of

all restrictions is simply liberality gone mad. The people who insist on having a "wide open" policy should realize that in several respects there is great peril and danger to them in such a policy.

It was my privilege, in the capacity of consulting actuary for the Army Officers' Association, to review the records of the United States War Department, from the institution of the department to the year 1893. From these records tables were constructed showing the war hazards as well as the mortality in military life. As a result I reached the conclusion that a company which entirely eliminates restrictions in time of war is recreant to its trust.

The clause in the policies with reference to military and naval service in time of war has, as a rule, been constructed on such equitable and reasonable lines as to render it unobjectionable. A clause which seems to me to be the most desirable is that which provides for the payment of an extra premium and a permit, and in the absence of the same provides for the scaling of the policy in the proportion of the war mortality to the tables upon which the premiums are based.

It is quite possible that with the increase of the insured population, in lieu of subsequently pensioning the widows of deceased soldiers, on declaring war the government might make provision for the payment of the extra war hazard premiums of the insured who enlist. The details of such a scheme could be worked out satisfactorily.

7. It has been assumed that a sane person will not commit suicide, and that therefore it should not be made a defense to a claim under the terms of the policy. This assumption has again and again been demonstrated to be a fallacy. While a certain proportion of suicides are no doubt irresponsible, the great majority are rational and thoroughly conscious of what they are doing. The proof of this lies in the statistical fact that companies and societies which have no suicide clause in the first few policy years have had from three to fivefold greater percentage of deaths by suicide than they have had in subsequent years. It is true that the deaths have not always been designated as suicidal, but the remarkable fact remains that the so-called accidental deaths have been much greater in the first than in subsequent policy years. If this is not due to a conscious selection against the companies, then how else can it be accounted for? Again, some of the fraternal societies which have had no

suicide provision, by adopting such a clause materially reduced the per cent. of suicides.

The State of Missouri some years ago enacted a law prohibiting companies from making suicide a defense. The moral effect of this law was so bad that the legislature, on its own motion and without any effort on the part of insurance companies, changed the law so that suicide within two years of the date of policy contract may be a defense.

It is exceedingly difficult, in cases where suicide is suspected, to get the true cause of death properly stated in the proofs of loss and claim. Suicide at once becomes a sort of stigma upon the immediate family, and because of this and because a frank and honest admission might defeat the recovery of insurance, every means is resorted to to conceal the true cause of death.

In the interest of good morals and the elevation of the human race every policy of life insurance for at least the first two years should impose a penalty for death by suicide.

8. The restrictions with reference to dueling and violating law, or death by the hand of justice, have either been entirely removed or so modified as practically to amount to nothing. Happily, dueling is now regarded as an act of cowardice instead of bravery, and it is so seldom resorted to for the settlement of disputes or the defense of honor as to make its elimination from the life insurance contract entirely practical. There is, however, a form of violation of law which has become quite serious in some states, and for which no remedy has been found. I refer to the feuds as a result of which a number of policyholders have been murdered in cold blood at the expense of other policyholders who had no part in the feuds. Indeed, there are sections of our country where the life companies for a time have found it necessary to decline to do business. Feuds create conditions that cannot be met by policy restrictions.

9. The great care exercised by the companies generally in the selection of risks, excluding all persons of questionable habits, renders a policy clause against intemperance practically of no value. This is why a large proportion of the companies have no provision against intemperance.

10. The improvement in sanitary conditions and in the means of travel has justified the companies in eliminating most of the restrictions upon residence. About one-half of the companies have

no restrictions whatever. A man can take out a policy in this country to-day, pay for it, and to-morrow travel to and reside in a country where the mortality is admittedly twofold. I fully agree, because statistics show, that a restriction in the temperate zone is unnecessary, but I can find no justification for allowing persons to take out policies in the temperate zone at regular rates, and then permitting them to live in the fever-stricken sections of the tropics without requiring an extra premium. No argument against this is necessary beyond the statistics of our American companies which do business in the tropics. While it is true that they collect a larger premium, it is also true that about 50 per cent. of such larger current premium is required to pay the current losses, while in the temperate zone about 25 per cent. of a smaller premium is sufficient. Hence, conservatively managed companies incorporate some policy restriction which will neutralize the effect of residence and travel either in portions of the tropics or in portions of the frigid zone.

II. The public sentiment already referred to as due to unfortunate insurance conditions following the Civil War is responsible for a division of opinion among the life companies with regard to the so-called incontestable clause. One class—and this class is decidedly in the minority—favors what is known as the “open door” policy, which in effect provides that after the policy has been issued the company is precluded from raising any question as to the validity of the contract. This class of companies must of necessity employ a retinue of inspectors and detectives to learn all about the character of the risk before a policy is issued. This involves a large expense which must be borne by the existing policyholders.

Another class of companies believes that every applicant should personally become responsible for the truth of his own statements for a limited time—usually two years—without entailing on the other policyholders the expense incident to the special and searching investigations necessary in case a policy is incontestable from date of issue.

There are not only common law questions, but questions of public policy involved. As a common law principle fraud vitiates contracts. As a matter of public policy, no man should be allowed either for himself or his dependents to profit by his own fraud. Hence, 96 per cent. of the companies do not issue policies incon-



testable from date of issuance. Instead their policies become incontestable usually two years afterward. This gives a company the opportunity, in the regular course of its business, of verifying the statements upon which the contract is based, and if it finds that untrue and fraudulent statements have been made, and the insured does not voluntarily surrender the policy when called upon to do so, equity proceedings are usually instituted to compel its surrender.

The courts of several states have held such policies, after the lapse of the contestable period, to be absolutely incontestable, because the company issuing such a policy has reserved to itself a period of time to investigate and discover any false or fraudulent statement that would vitiate the policy. If it fails to investigate and discover, the fault is its own and, therefore, it cannot avail itself of the common law principle which obtains in case the policy is made incontestable from date of issuance, viz., that fraud vitiates or renders null and void all contracts. It may therefore be contended, with considerable force, that the few companies which have no incontestable clauses are better protected against fraud than those which do have such clause. On the other hand, if the fraud is of such a character as not to be detected within two years it cannot be serious and by the express terms of the contract should not be allowed to affect it.

12 and 13. The feature of grace in the payment of premiums had its origin in the desire of the companies to do all they could within the limits of safety to avoid lapses. Its principal effect is to postpone the last day of payment, or the final due date. Therefore, if a policyholder, instead of using the days of grace as a margin to avoid lapse, should get into his mind that instead of the final day of payment being March 1st it is March 30th, and should procrastinate accordingly every year, he would lose all the benefits of the feature.

Reinstatement should not be simply a matter of grace, but a matter of right under the contract, upon compliance with reasonable requirements to prevent those who purposely lapse their policies from coming back into the company after they have become afflicted with disease.

14, 15 and 16. The non-forfeiture and dividend provisions, as also those covering payment of claims, are features upon which there is such a degree of unanimity and such uniformity of practice

that there is little to be said beyond what will be disclosed by the examination of the policies of any reserve company.

In a general way, however, I will say that cash surrender values are not only liable to defeat the very purpose of protection for which insurance stands, but to encourage selection against the company; and that the non-forfeitable values, through competition, have become liberal to a fault. A company that imposes penalty for discontinuance will best serve its persisting policyholders.

The dividend clauses, whether annual or deferred, should be explicit, direct, unequivocal and enforceable. A contract that does not clearly and distinctly draw the line between surplus and distributive surplus, and that without some governing, fundamental principle, leaves the rules and directors of the company in the future to determine what surplus is or is not distributive, is objectionable.

The ideal policy stipulates the governing principle which in the matter of distributing profits is binding both upon the insurer and the insured.

## THE CALCULATION OF LIFE OFFICE PREMIUMS

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It may fairly be claimed that the most vital requirement in life insurance is that the premiums charged shall be adequate, and, accordingly, an understanding of the principles which govern their calculation is essential. Since life insurance as represented by fraternal and assessment companies will be dealt with elsewhere in this volume, this paper proposes to deal only with the premiums of old line companies.

*Scientific Basis.*—The basis of life insurance is the doctrine of average and the theory of probability, and premiums are calculated from what are called life tables, formed by combining tables of mortality and tables of compound interest.

*Compound Interest.*—In the calculation of premiums it is almost invariably assumed that interest is compounded annually, and in the following investigations this assumption will be made.

Let  $P$  denote the principal sum and  $i$  the rate of interest. The amount of  $P$  at the end of one year is  $P \times (1 + i)$ ; at the end of two years,  $P \times (1 + i) \times (1 + i) = P (1 + i)^2$ , and if  $S$  denote the amount to which  $P$  has accumulated at the end of  $n$  years, we have

$$S = P (1 + i)^n \quad (1)$$

Let  $v$  denote the present value of 1 due at the end of a year, then since 1 amounts at the end of a year to  $(1 + i)$ , therefore  $\frac{1}{1 + i}$  will amount at the end of a year to 1 and

$$v = \frac{1}{1 + i} \quad (2)$$

Similarly, if  $v^n$  represents the present value of 1 due at the end of  $n$  years

$$v^n = \frac{1}{(1+i)^n} \quad (3)$$

Let  $d$  be the discount on 1 for a year, then  $d$  is equal to the difference between the sum due and its present value, or

$$d = 1 - v = 1 - \frac{1}{1+i} = \frac{i}{1+i} = vi \quad (4)$$

Also, since  $d = 1 - v$  therefore  $v = 1 - d$ . (5)

*Mortality Tables.*—A mortality table has been defined as the instrument by means of which are measured the probabilities of life and the probabilities of death. It has been shown by various investigations that the chance of death at any age of a person in average health is a very definite quantity. The exact date of death of the individual cannot be foretold, but if we have a large number of persons of the same age it is possible to foretell with great accuracy that a certain number will probably die in the first year, a certain number in the second year, and so on until all are dead. It must be kept very clearly in mind that the science of life insurance is based on the law of averages, and when we hear such expression as that the expectation of life of a person aged forty is 28.18 years, it does not mean that an individual aged forty may expect to live exactly 28.18 years, but only that if a large number of persons were traced from age forty to the end of life, their average lifetime from forty until death would approximate to 28.18 years.

A table of mortality contains the following columns: first, a column showing the number of persons living at each age— $l_x$ ; second, a column showing the number who die at each age— $d_x$ .

Let us take the American table of mortality for illustration. At age ten, the commencing age of the table, an arbitrary number, 100,000, was taken, and the first column,  $l_x$ , shows opposite each age the number who survive at each age out of this original 100,000.

The second column,  $d_x$ , gives the number who die at each age, and can be got by differencing the numbers in the living column; for example, at age forty the number living is 78,106, and at age forty-one the survivors number 77,341; the difference between these

numbers, 765, is the number who die in the year of age forty; thus we have,

$$l_{40} - l_{41} = d_{40}$$

The number of survivors gradually diminish to three at age ninety-five, and as three are assumed to die in the following year, there are no survivors at age ninety-six, which is the limiting age of the table.

A table of mortality is constructed by tabulating for as large a number of persons as possible, the ages at the time the observations commence, the period of time during which the life is under observation, and the number of deaths occurring at each age. Then the number of lives who attain each age is tabulated opposite each age, and the number of deaths is put opposite the age at which the death occurs. Next the number of deaths opposite each age is divided by the number living at that age and we obtain the probability of death at individual ages, denoted by  $q_x$ . This value is usually somewhat irregular and is smoothed by a graduation formula. Then the arbitrary number assumed to be living at the initial age of the table, called the radix, is multiplied by the probability of dying at that age, giving the number to be put in the  $d_x$  column, this number of deaths is subtracted from the 100,000, and the number left surviving, 99,251, is multiplied by the probability of dying in a year at age eleven, and so on to the limit of the table. The following extract from the American Table of Mortality will show how the number of survivors diminish and how the death-rate runs:

Age.	Number Living.	Deaths.	Probability of Death in a Year.
10	100,000	749	.007490
20	92,637	723	.007805
30	85,441	720	.008427
40	78,106	765	.009794
50	69,804	962	.013781
60	38,569	2,391	.061993
70	847	385	.454545
81	462	246	.532468
92	216	137	.634259
93	79	58	.734177
94	21	18	.857143
95	3	3	1.000000
96	0	0	

*Probabilities of Life and Death.*—By means of the theory of probabilities we measure the chance of an event happening, and the most convenient way of representing this chance mathematically is by means of a fraction.

By an examination of the American table, we see that of the 100,000 lives who start at age ten, 69,804 survive to age fifty, thus the probability that a person aged ten will attain age fifty is  $\frac{69,804}{100,000}$

The probability that a person aged  $x$  will live  $n$  years is denoted by  ${}_np_x$ , and that a person aged  $x$  will die within  $n$  years is denoted by  ${}_nq_x$ .

$${}_np_x = \frac{l_{x+n}}{l_x} \quad (6)$$

$${}_nq_x = \frac{l_x - l_{x+n}}{l_x} \quad (7)$$

Equation (7) may be explained as follows: At age  $x$  the number living is  $l_x$ , at age  $x+n$  the number of living is  $l_{x+n}$ , the difference ( $l_x - l_{x+n}$ ) gives the number who die between ages  $x$  and  $x+n$ , and dividing this by  $l_x$ , the original number living, gives the probability that a person aged  $x$  will die in the next  $n$  years.

*Life Annuity.*—To find the value of 1 to be received by a person now aged  $x$  provided he live to the end of a year, we have to multiply the present value of 1 due at the end of a year by the probability that ( $x$ ), which we will understand to mean a person aged  $x$ , will be

living at the end of a year, and we obtain from (6) the result  $v \cdot \frac{l_{x+1}}{l_x}$ ,

if the amount is to be received at the end of  $n$  years, only in event of survival, the value, called a pure endowment, is

$${}_nE_x = v^n \cdot \frac{l_{x+n}}{l_x} \quad (8)$$

A life annuity is a periodical payment of money to be made to a person provided such person is alive at the time the payment falls due. It is, in fact, a series of pure endowments, payable at the end of successive years, the consideration being a cash payment down.

Giving to  $n$  in (8) all values from 1 upwards and again assuming the present age to be  $x$ , we have the value of a life annuity,

$$a_x = \frac{vl_{x+1}}{l_x} + \frac{v^2l_{x+2}}{l_x} + \frac{v^3l_{x+3}}{l_x} + \dots \quad (9)$$

From this we see that the value of a life annuity may be calculated by multiplying the factors contained in an interest table and a mortality table, but the process would be very laborious. By means of a simple device much labor is saved. Let us multiply both numerator and denominator of the right-hand side of (9) by  $v^x$ , then we have

$$a_x = \frac{v^{x+1}l_{x+1} + v^{x+2}l_{x+2} + v^{x+3}l_{x+3} + \dots}{v^x l_x} \quad (10)$$

Denote  $v^x l_x$  by  $D_x$  and we obtain

$$a_x = \frac{D_{x+1} + D_{x+2} + D_{x+3} + \dots}{D_x} \quad (11)$$

Again, let the summation of  $D_x + D_{x+1} + D_{x+2} + \dots$  to the limit of the table be denoted by  $N_x$  and we finally have

$$a_x = \frac{N_{x+1}}{D_x} \quad (12)$$

The form of the  $N$  column where  $N_x$  represents the summation of  $D_x + D_{x+1} + D_{x+2} + \dots$  must be carefully distinguished from the form  $N_x = D_{x+1} + D_{x+2} + \dots$  which was adopted by the International Congress of Actuaries, but has not been received with much favor in the United States, where the form  $N_x = D_x + D_{x+1} + \dots$  has been found more convenient.

The values  $D$  and  $N$  are tabulated in columns, and with other values to be mentioned later, form what are called commutation columns.

These values have no special meaning in themselves, but their tabulation has enormously reduced the labor of life insurance calculations.

If the first payment of the annuity is to be made at once we have

$$a_x = 1 + a_x = \frac{N_x}{D_x} \quad (13)$$

We can now express the value of a pure endowment to  $(x)$  at the end of  $n$  years as follows:

$${}_nE_x = \frac{D_{x+n}}{D_x} \quad (14)$$

*Temporary Annuity.*—If the annuity is to consist of  $n$  payments only, and the first payment is to be immediate, we obtain

$$\begin{aligned} a_{x:n} &= 1 + \frac{vl_{x+1}}{l_x} + \frac{v^2 l_{x+2}}{l_x} + \dots + \frac{v^{n-1} l_{x+n-1}}{l_x} \\ &= \frac{v^x l_x + v^{x+1} l_{x+1} + v^{x+2} l_{x+2} + \dots + v^{x+n-1} l_{x+n-1}}{v^x l_x} \\ &= \frac{D_x + D_{x+1} + \dots + D_{x+n-1}}{D_x} \\ &= \frac{N_x - N_{x+n}}{D_x} \end{aligned} \quad (15)$$

This is called a temporary life annuity and is used in calculating annual premiums where the period of premium payments is limited to a term of years.

*Ordinary Whole Life Insurance.*—To find the value of 1 payable at the end of the year of death of  $(x)$ , the first year the value of the insurance is  $v \cdot \frac{d_x}{l_x}$  the second year  $v^2 \cdot \frac{d_{x+1}}{l_x}$ , and so on.

Denote the single premium for an ordinary life insurance of 1 by  $A_x$ , and we have

$$A_x = \frac{vd_x + v^2 d_{x+1} + v^3 d_{x+2} + \dots}{l_x} \quad (16)$$

Again multiplying above and below by  $v^x$  and denoting  $v^{x+1} d_x$



by  $C_x$  and the summation  $C_x + C_{x+1} + C_{x+2} + \dots$  by  $M_x$ , we obtain

$$A_x = \frac{v^{x+1}d_x + v^{x+2}d_{x+1} + v^{x+3}d_{x+2} + \dots}{v^x l_x} \quad (17)$$

$$= \frac{C_x + C_{x+1} + C_{x+2} + \dots}{D_x} \quad (18)$$

$$= \frac{M_x}{D_x} \quad (19)$$

The annual premium for an ordinary life insurance is payable for the whole of life and to find the annual equivalent for the single premium we have the following equation, in which we equate the benefit to payment,

$$P_x(1 + a_x) = A_x$$

$$\text{therefore } P_x = \frac{A_x}{1 + a_x} = \frac{\frac{M_x}{D_x}}{\frac{N_x}{D_x}} = \frac{M_x}{N_x} \quad (20)$$

*Temporary Insurance.*—In this form, the sum insured is payable only if death occur within a certain number of years. The value of a temporary life annuity was shown by (15) to be  $\frac{N_x - N_{x+n}}{D_x}$ .

Similarly, it may be shown that the value of a temporary insurance,

$$A_{x:n}^1 = \frac{M_x - M_{x+n}}{D_x} \quad (21)$$

and the annual premium for a temporary insurance,

$$P_{x:n}^1 = \frac{M_x - M_{x+n}}{N_x - N_{x+n}} \quad (22)$$

*Limited Payment Life.*—If the sum insured is to be payable at death, but the premium is to be payable for a certain number of

years only, we have what is known as a limited payment policy, the annual premium,

$${}_nP_x = \frac{M_x}{N_x - N_{x+n}} \quad (23)$$

*Endowment.*—This is a combination of a temporary insurance and a pure endowment, the amount insured being payable either in event of death within  $n$  years or in event of survival at the end of  $n$  years. The formula is obtained by combining (14) and (22), and denoting the annual premium for an endowment by  $P_{\overline{xn}}$  we get

$$P_{\overline{xn}} = \frac{M_x - M_{x+n} + D_{x+n}}{N_x - N_{x+n}} \quad (24)$$

It will be noticed that the annual premium is obtained by dividing the single premium by a temporary annuity for the term for which the premium is payable, and that the first payment of the annuity is taken as payable at once. This applies to all premiums and is due to the fact that life insurance premiums are always payable at the beginning of the policy year.

For most of the standard tables the net premiums have been tabulated at each age for the ordinary forms of policies and are available without the necessity of making any calculation. We have shown how they may be calculated for these simple forms. By the construction of other commutation columns, values may be obtained for other and more complex benefits, but it is beyond the scope of the present paper to go more deeply into the mathematical part of the subject.

*Reserve or Policy Value.*—The reserve on a policy is the sum which the office must have in hand to provide for the future liability under a contract which is not covered by the value of the premiums still to be received, and the only source from which it can be derived is the accumulation of the portions of the net premiums already received and not used in the past for the cost of insurance. The risk of death increases with advancing age, and taking the case of a whole life policy with level annual premiums the excess payments in the early years must be husbanded to meet the time when the cost of carrying the insurance exceeds the premium payable. In an endowment policy an additional amount has to be set aside towards the payment of the endowments which will fall due by

reason of the survival of the life insured to the end of the endowment term. The lower the interest assumption, the higher will be the reserve. For instance: a reserve based on 3 per cent. is larger than one based on  $3\frac{1}{2}$  per cent., for the reason that under the first assumption the company only needs to earn 3 per cent. on its investments in order to fulfill its contract, whereas under the latter a minimum return of  $3\frac{1}{2}$  per cent. interest is necessary. It is apparent that a larger sum must be set aside each year out of the premium where the amount is to be invested at the lower rate. The use of a stringent interest rate in computing reserves has resulted in the companies charging higher rates than those in use some years ago, but this increase in rate has been counter-balanced to some extent by the much more liberal guarantees now contained in a policy as regards cash and loan values, paid-up insurance, and the other non-forfeiture provisions in event of discontinuance of the premium payments.

*Standard Mortality Tables.*—In this country two mortality tables are in common use, the Actuaries', or combined table of mortality, and the American experience table of mortality.

The Actuaries' table was published in 1843, and was constructed from statistics of insured lives furnished by seventeen (17) English offices. It is now admitted that the mortality shown by this table is much heavier than that experienced by well-managed life offices, and it is now being rapidly superseded by the American table, which has come to be looked upon as the standard table of the United States.

The American experience table of mortality was formed by Sheppard Homans, and was first published about the year 1870. The statistics deduced from the experience of the "Mutual Life" of New York were the bases of the table, but considerable adjustments were made, especially at the older ages. The table gives a very good indication of the mortality likely to be experienced among insured lives after the initial effects of the medical selection have worn off, and the table is now very generally used. Most of the state insurance departments have adopted the American table as their standard for the calculation of the reserve liability of the companies.

In the calculation of rates for life annuities it is desirable to use a table which distinguishes between male and female lives.

Below the age of fifty, the mortality amongst females has been found to be heavier than of males, but at ages above fifty the superior vitality of the female is very pronounced, and nearly all life annuities are issued at ages over fifty. Recent returns of the life companies would seem to indicate that annuity business is run on a very narrow margin and an authoritative table, showing the mortality amongst American annuitants distinguishing between male and female lives, would be welcomed by all actuaries. The growing accumulation of wealth in this country and the difficulty of obtaining high rates of interest in return for investment of capital make it likely that the purchase of life annuities will largely increase in the near future. At present, probably the best table available for life annuity calculation is that recently issued by the British Institute of Actuaries, giving the mortality amongst annuitants in the English and Scotch companies.

*Interest Basis.*—The usual rate of interest adopted for the calculation of premiums at the present time is either 3 per cent. or  $3\frac{1}{2}$  per cent. Prior to 1901, the state valuation requirements were mostly based on a 4 per cent., but since that time several of the states required a  $3\frac{1}{2}$  per cent standard on all new business written, and many of the strongest companies have gone a step further and base their rates on 3 per cent. The following table of net premiums at age thirty-five, by the American experience table of mortality illustrates the difference in the net annual premiums according as the interest basis is taken at 3 per cent. or  $3\frac{1}{2}$  per cent.

	3% Basis.	$3\frac{1}{2}$ % Basis.
Ordinary Life .....	\$21.08	\$19.91
10 Payment Life .....	49.73	44.78
20 Payment Life .....	29.85	27.40
10 Year Endowment .....	89.30	87.02
20 Year Endowment .....	41.97	40.12

In view of the fall in the rate of interest obtainable in recent years on first-class securities it would appear that the rate of interest to be assumed for the future should not exceed  $3\frac{1}{2}$  per cent., and that 3 per cent. is a very suitable rate for use in the calculation of life insurance premiums for policies which are to participate in the surplus earnings of the company. If the company earns a higher rate of interest than that assumed in determining its reserve liability,

which is usually calculated at the same rate of interest as that used in computing the premiums, the excess interest receipts form a source of profit, and several companies have adopted a rate of 3 per cent. where the legal requirement is  $3\frac{1}{2}$  per cent., on the ground that it puts them in a stronger position and will enable them to earn a larger margin of surplus interest in years to come and thus help to give larger dividend returns to policy holders. For policies which do not participate in profits, a somewhat higher rate of interest may be used in computing premiums than that adopted in calculating the premiums on participating policies.

*Loading.*—We have now considered two of the important factors in rate making, the mortality table and the interest basis. The third and final function is the loading. Up to this point we have dealt with what are called net premiums, in which there is no provision for expenses or contingencies. In the procurement of new business and the care of the old, expense is necessarily incurred, and to provide for this an addition, called loading, is made to the net or mathematical premium. Returns to policy holders in the way of dividends have also come to be such a recognized part of the system of life insurance that the loading is usually made sufficient to insure a surplus. Where the company returns in the form of dividends the excess payments made over those required, it may be pointed out that the actual cost to the policy holder is sometimes reduced below the net premium, the insured member getting the benefit of the actual rate of interest earned, the actual rate of mortality experienced, and paying his just share of the expenses. Keeping this in view, we see that it is much better to have a rate too large than too small; because when the rate is larger than is absolutely necessary, an adjustment is made by the dividend distribution, whereas, if the rate is too small, disaster must follow. In theory, therefore, the results under a participating policy should be more favorable than under a non-participating policy, as in order to be safe the company must, under the latter form, have a small margin which will not be returned to the policy holder. The method of loading has varied from time to time, and there is still great diversity of opinion as to which is the best method. In early times, the usual method was simply to increase the net premium by a fixed percentage. This method had the disadvantage of making the loading very heavy at the old ages.

The commission payable is usually fixed at a certain percentage of the premium, and the method mentioned applies well as regards this item, but the other expenses, such as the cost of the medical examination, the writing of the policy, and the home office expenses, are just as heavy for a young age as for an old age. Another method would be to add a constant amount to the net premium irrespective of the age. This method has exactly the opposite effect to that produced by adding a percentage to the net premium, for it makes the loading relatively much heavier on the young than on the old ages.

A method which has come into great favor is to load the net premium for the particular contract with a certain percentage of itself and, in addition, add a certain percentage of the ordinary life net premium. For example, on a twenty year endowment, the gross or office premium might be made as follows, at the age of forty:

American 3% Net Premium for 20 Year Endowment.....	\$43.01
Add 12½% .....	5.38
Add 12½% of Net Ordinary Life Premium (\$24.75).....	3.09
Gross Premium .....	<u>\$51.48</u>

The following table shows the effect of a loading on the above basis as between different ages and different classes of insurance:

#### SPECIMEN RATES.

American 3% loaded 12½% plus 12½% of Net Ordinary Life Premium.

<i>Ord. Life.</i>	Age.	Net Prem.	Percentage of loading to		Total Loading.	Office Prem.	Net Prem.	Office Prem.
			12½% Net Prem.	12½% Net Ord. Life Prem.				
<i>Ord. Life.</i>	21	\$14.72	\$1.84	\$1.84	\$3.68	\$18.40	25%	20%
	40	24.75	3.09	3.09	6.18	30.93	25%	20%
	60	58.27	7.28	7.28	14.56	72.83	25%	20%
<i>10 Payt. Life.</i>	21	39.52	4.94	1.84	6.78	46.30	17%	15%
	40	54.66	6.83	3.09	9.92	64.58	18%	15%
	60	87.22	10.90	7.28	18.18	105.40	21%	17%
<i>20 Payt. Life.</i>	21	23.48	2.94	1.84	4.78	28.26	20%	17%
	40	33.14	4.14	3.09	7.23	40.37	22%	18%
	60	61.62	7.70	7.28	14.98	76.60	24%	20%

10 Year Endt.	Age.	Net Prem.	12½%		Total Loading.	Office Prem.	Percentage of loading to	
			Net Prem.	Net Ord. Life Prem.			Net Prem.	Office Prem.
	21	88.62	11.08	1.84	12.92	101.54	15%	13%
	40	89.86	11.23	3.09	14.32	104.18	16%	14%
	60	101.69	12.71	7.28	19.99	121.68	20%	16%
20 Year Endt.								
	21	40.81	5.10	1.84	6.94	47.75	17%	15%
	40	43.01	5.38	3.09	8.47	51.48	20%	16%
	60	63.29	7.91	7.28	15.19	78.48	24%	19%

An examination of the last column given above will show that although this method makes some adjustment as between different classes of policies, yet it does not adjust equitably the expenses between old and young entrants. The method has the advantage of being very elastic, as by varying the loading percentages of the contract net premium or of the ordinary life net premium, the gross premiums may be modified as desired. It has been argued by some actuaries that the rates for old entrants should be more heavily loaded, as it is believed that the medical selection is more efficacious in the case of young lives.

*Constant and Percentage Loading.*—A good method would be to add to the net premium a constant and then load this gross amount with a percentage. For illustration, let us take the constant as \$3.00 per \$1,000 insured, the percentage as 15 per cent., then using the American 3 per cent. table of mortality we get the following rates:

SPECIMEN RATES.

American 3% loaded with a constant of 3 per 1000, plus 15%.

Ord. Life.	Age.	Net Prem.	Con stant.	15% of Net		Total Loading.	Office Prem.	Percentage of loading to	
				Prem.	Prem. plus constant.			Net Prem.	Office Prem.
	21	\$14.72	\$3.00	\$2.66	\$5.66	\$20.38		39%	28%
	40	24.75	3.00	4.17	7.17	31.92		29%	23%
	60	58.27	3.00	9.19	12.19	70.46		21%	17%
10 Payt. Life.									
	21	39.52	3.00	5.93	8.93	48.45		23%	18%
	40	54.66	3.00	8.20	11.20	65.86		21%	17%
	60	87.22	3.00	13.08	16.08	103.30		18%	16%

<i>20 Payt. Life.</i>	Age.	Net Prem.	Con- stant.	15% of Net Prem. plus constant.	Total Load- ing.	Office Prem.	Percentage of loading to	
							Net Prem.	Office Prem.
	21	23.48	3.00	3.97	6.97	30.45	30%	23%
	40	33.14	3.00	5.42	8.42	41.56	25%	20%
	60	61.62	3.00	9.69	12.69	74.31	21%	17%
<i>10 Year Endt.</i>								
	21	88.62	3.00	13.29	16.29	104.91	18%	16%
	40	89.86	3.00	13.48	16.48	106.34	18%	16%
	60	101.69	3.00	15.25	18.25	119.94	18%	15%
<i>20 Year Endt.</i>								
	21	40.81	3.00	6.57	9.57	50.38	23%	19%
	40	43.01	3.00	6.90	9.90	52.91	23%	19%
	60	63.29	3.00	9.94	12.94	76.23	20%	17%

This method of loading appears to fulfill our requirements somewhat better than the methods previously mentioned. While the amount of loading increases with an increase in age, yet the percentage decreases, and the equities between different classes of insurance are preserved. It will be understood the figures given are merely for the purpose of illustrating the different methods of loading, and that the percentage or constant employed must be fixed with regard to the actual expenses likely to be incurred.

In the practical calculation of office premiums, the rates of competing companies must be very carefully considered. Competition is very sharp, and the rates of the large companies form a standard from which it is not judicious to depart very far. The distribution of dividends, which is now almost universally made having regard to the amount contributed by each individual, removes apparent inequalities. Amongst other considerations which enter into the method of calculating office premiums, perhaps the most important is the amount of surrender value to be allowed in event of discontinuance, but this phase of the subject is too large to be included in the paper now presented.



## THE ORGANIZATION AND MANAGEMENT OF THE AGENCY SYSTEM

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By L. G. FOUSE,

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### I

#### *The Vital Relation of the System to the Life Insurance Business.*

*The Agency System Provides the Force which Moves the Business.*—Before we can intelligently comprehend the organization and management of the system, we should endeavor to get a thorough understanding of its part in the life insurance business. It represents the generating force which gives life and vitality to the business. Just as a railroad company may have a magnificent equipment of rolling stock, stations, etc., which is without use or value until the motive power is applied, so the life insurance company may have a complete equipment for business, but until the motive power or force is applied it is useless. Equipment and motive power are interdependent. To vary the illustration, the agency system gathers up the raw material, and with the help of the medical department, prunes it, and puts it in form to become a part of the great life insurance structure.

*The English Method of no Agents or Branches.*—While the practice of paying commissions to compensate agents and solicitors was introduced in England during the first part of the nineteenth century, little progress was made with it, and it was not systematically developed until it became a distinguishing feature of the American life insurance business. In 1810, Mr. Francis Baily, a distinguished authority, roundly condemned the practice of employing agents on commission on the ground that it opened the door "to fraud and imposition." A number of the English companies, conspicuous among which is the Equitable Society of London,

founded in 1756, do not employ agents. Notwithstanding the fact that the Equitable has been in existence nearly one hundred and fifty years, during which period it has served its members economically and faithfully, it has had a gradual diminution in recent years of new policies issued. For example, in 1898, it issued four hundred and fifty policies, while in 1902 it issued only two hundred and fifty. Its accumulations, however, in proportion to the insurance in force, because of the long time in which it has been in business, are very large. While its payments for losses and claims in 1902 amounted to \$1,054,790.10, its premium receipts in the same year amounted to \$935,914.50, thus illustrating the fact, which every agent should know and with which the general public should become better acquainted, that a time will come in the history of every reserve life insurance company, because of the uniform premium and the advancing age of its policyholders, when the premium receipts will be inadequate, and the greater portion of the losses and claims will have to be paid out of the accumulated reserve fund.

Under the old English method, applicants for insurance were expected to present themselves in person to the membership committee of the governing board. They were subjected to a verbal examination and in some instances to a physical examination, especially in later years. This practice obtained during the first half of the nineteenth century, from which was gradually evolved a modification of the present American agency system. The commission originally paid amounted to 10 per cent. of the first year's premium and 5 per cent. on renewal premiums. The development and extension of the business made it necessary, even in England, to establish branches and their machinery to receive applications and premiums.

*The System as it Stands To-day an American Creation.*—At the time life insurance received its impetus in this country, which was soon after the Civil War, it was found that even a modification of the English method would not apply to this country, because of the great distances, comparatively sparse population, and otherwise different conditions. This observation and experience on the part of the companies resulted in the development of the present agency system. It is a recognized principle of conservative underwriting, that the business should be sufficiently scattered to neutralize the possible effect of local epidemics and conditions. To this end, the

companies proceeded to extend their business to different states, ultimately to all the states, and some few of the companies have spread beyond the borders of our own country.

Soliciting business is by no means confined to life insurance, but is a course pursued in all branches of industry. The wonderful growth and progress of the life insurance business in this country is in the main due to this agency system, through which the economic value of life insurance has been brought home to the knowledge of our people.

## II.

### *Limitations of the Life Insurance Agent.*

*Legal Definition of the Term "Agent."*—Generally speaking, under the common law the principal is liable for the act of his agent. It has, however, become a well-settled rule of law, that the acts of agents are only binding upon the principal to the extent of the power delegated. It is, therefore, the custom of the companies clearly to define the power of the agent, not only in the agent's contract but also in the policy contract, so as to bring home to the insured a full knowledge of the agent's authority. This authority, as a rule, consists of soliciting applicants for insurance and collecting the initial premium only, while the agent is expressly forbidden to bind the company, and merely submits the application for approval or disapproval of the company. He is not permitted to waive forfeitures, to grant credit, or to modify the contract clearly and definitely expressed in the application and policy applied for. It can be readily seen that, with the large number of agents scattered throughout the country, the company would become hopelessly involved if agents were permitted under the common law principle to bind the companies which they represent in matters foreign to their delegated authority. Notwithstanding these limitations, however, the courts of some of the states have gone out of their way to hold the companies liable for the acts of agents; and, therefore, it is essential not only that agents be cognizant of the conditions of policy contracts, but of the necessity of keeping strictly within the limitations of their contract of employment.

*Improper Use of the Term "Agent."*—In view of the necessity of limiting the authority of the life agent, it is a mistake, which has

given solicitors and companies much annoyance, to use the term "agent." I am aware that the practice is so general that it would be difficult to substitute another title. I believe, however, that the time will come when the agent as now known and understood will be designated either as life underwriter, solicitor or salesman. I favor the first designation of "life underwriter." While the term "underwriter," as at present employed, does not necessarily comprehend the soliciting of a contract to be written, there is no reason why the term should not be given a broader meaning than that hitherto attached to it.

*Life Underwriting a Profession.*—The representative of a life insurance company who proposes a contract to a prospective applicant is already generally regarded as something more than a solicitor. He is supposed to have become an expert in the business of life insurance to a degree that enables him to select the contract best suited to the needs of a prospective applicant, and to act, therefore, in an advisory capacity and assume responsibility to that extent. In my opinion, in a comparatively short time life underwriting will be distinctly recognized as a profession; and through either the universities or various life underwriter associations, degrees of competency should be conferred. The interests of the profession should be as jealously guarded and promoted by its members as are the interests of the legal, medical, or any other of the professions.

*Dignity and Professional Character of Insurance Recognized by Colleges.*—The Prussian government, through its educational bureau, in 1895 established at the University of Goettingen a seminary for instruction in the mathematical, economic, ethical and sociological features of life insurance. This appears to have been the first regular, systematic effort in this direction. In our own country courses of insurance, as is well known, have been established in the University of Pennsylvania, at Yale, Michigan, Wisconsin, and in a number of colleges. Some of the life companies have made a specialty of summer schools of instruction in life insurance, which the graduates of our universities and colleges have been invited to attend. In recent years, the agency system has been strongly reinforced by graduates of our institutions of learning. Many of these have taken a conspicuous and prominent part in field work and have been very successful. In fact, the progress of the business, its professional character, the sharp competition which prevails, the various

intricacies that must be mastered, have made the field infinitely more inviting to the man with a trained and disciplined intellect than to the man of limited education.

### III.

#### *The Development of the Agency System as a Part of the Life Insurance Business.*

*The System Contemporaneous with the Life Insurance Business.*—In this country, the agency system is practically contemporaneous with the life insurance business. With the exception of the Presbyterian Ministers' Fund, and kindred institutions, the practice of soliciting business through agents obtained from the very inception of the companies. The terms of employment of agents or solicitors, however, have changed materially during the progress and development of the business. Agents are variously known as managers, general agents, solicitors and brokers, and all these are likely to have helpers. Neither brokers nor helpers are supposed to be under contract with the company, but to be acting merely for and through duly authorized agents.

*The Magnitude of the Agency System.*—Taking as a basis the licensed agents of Massachusetts, Missouri and California in proportion to the population, we have in this country 63,269 life insurance agents exclusive of brokers. Each agent represents an average population of 1,206 so that he has on an average 300 persons who are heads of families, wage-earners, or possessed of a competency. The average new business during the year 1903, per agent, excluding fraternal insurance, which is not represented by agents, amounted to \$38,500, so that the average income of these agents, depending upon the amount of the premiums and character of contracts, was between \$750 and \$1,200 per annum. In spite of the fact that all agents do not employ their entire time, although numbered among licensed agents, it will be seen that their average income per capita is about equal to the income of the representatives of railroads, banks and commercial houses, as shown by statistics. If, however, we eliminate agents who do not devote their entire time to the business, many of whom possibly do not write a single application in a year, we reduce the number more than half, with consequent improve-

ment in the showing of the average agent. The liberal compensation is justified by the character of service rendered.

#### IV.

##### *Organization of the Agency System.*

*How to Secure Material for Organization.*—It being admitted that the agency system is a necessity, there naturally arises the consideration of how to secure agents or material for the purpose of organization. It has often been said with much truth, that agents are in a measure born and not made. Just as soils are different and will not grow the same vegetation, so people are differently constituted and all are not adapted to the same class of service.

*First.*—The man who wants something for nothing, who is looking for an easy berth, who is indifferent to his own welfare and more so to the welfare of others, should not for a moment think of becoming a solicitor for life insurance, because such men must be driven, and a successful life insurance agent is his own driver.

*Second.*—The man who by instinct is a follower rather than a leader, who does not control but is controlled, who talks more than he thinks, or walks more than he works—and especially if he sits more than he walks—and one who does not possess the faculty of reasoning, and who is not endowed with a progressive spirit, is a failure in soliciting life insurance.

*Third.*—The life insurance field is inviting to the person of sufficient education to analyze and comprehend thoroughly all the intricacies of a life insurance contract, to grasp sufficient of the mathematical problem to present it intelligently, and to analyze and understand the statements made by the companies; who is gifted with sound reasoning powers, and the faculty of giving expression to thought in a clear, concise, intelligent and forceful manner, and who at the same time possesses courage, energy and perseverance. To select this last named class is the problem of a successful organizer.

While it is impossible always to secure the ideal, it is necessary to aim for it and come as near to it as possible. In a population of upwards of 80,000,000 sufficient material of the right type can be found. The organizer who will pass by the material which is not of the proper type and confine his efforts to looking for the right material, is in the end the successful one. Unfortunately, there are

still organizers who are willing to make a trial of any and all available material. These men have brought discredit upon the life insurance work. There is no royal road to success, nor is there a royal road to finding successful life underwriters. Advertising will not do it; and such men will not find a life insurance office of their own accord, because they are sought after by other industries. Hence, to secure them requires the co-operation of the policyholders who have an interest in promoting the welfare of the company, of reliable men willing to serve in an advisory capacity, and, above all, it requires the personal activity and good judgment of an experienced agency manager.

*Intensive vs. Extensive Culture of the Field.*—One of the principal difficulties to be overcome is the natural tendency of man to reach out beyond his capacity to assimilate or operate. As soon as a man becomes interested in the subject and contemplates engaging in the business, generally speaking, he at once becomes concerned in securing as large a district as possible. His next step after engaging with the company is to spread his work out so thin as to be ineffective, until experience teaches him that he has made a mistake. It is, therefore, desirable that a solicitor or manager of a district should operate in an intensive way in a small district so that his work becomes known from one inhabitant to another. In this way he can establish a clientele, if he is conscientious and careful in the conduct of his business, that will return to him ample reward for his efforts. A common error made by agents is the assumption that they gain by having exclusive rights to a specified district. It has been found that the best results are secured where different agents of the same company are operating. Where one sows, another reaps, and on the average the combined efforts produce infinitely better results. In one instance the agent may, after repeated effort utterly fail to make an impression. Another agent may come along and approach the subject in an entirely different way and succeed in making an impression at once. Where men are working in the same district, in order to get along harmoniously, it is necessary to be governed by the give and take principle, without attempting to monopolize the business. The one who makes such an attempt is usually the one who fails.

*Organization Through the General Agency System.*—In the early days of life insurance in this country it became apparent that

it was necessary, in order to extend the business of the companies, to district the territory and delegate the organization work to a person designated either as manager or general agent. The wisdom of this system depends entirely upon the character of the contracts made. If the contract is made in such a way that the agency must contribute to perpetuating the existence of the company or suffer some adequate penalty for failure to do so, then perhaps it is as efficient as any method or system that could be devised. Thus, if the contract with the managing agent incorporates safeguards and makes it necessary for such agent to maintain an average increase in the business which the company aims to do (and this should be a net increase over lapses, deaths and cancellations of from 2 per cent. to 25 per cent. a year, depending upon the age of the agency), or suffer some adequate penalty for not doing it, then the combined effort of the managing agents guarantees the continuance and healthful growth of the company's business. If, however, the contract makes it possible for the managing agent to "lie down" on his past record and through his renewal commissions live upon the company without securing new insurance, while keeping the company out of territory which it could profitably enter, then the system is a failure. If managing agents are not willing to share with the management of the company some responsibility towards perpetuating the existence of the company, then they are not entitled to the compensation which is usually accorded them and they should be relegated to the field as solicitors.

*The Part of the Branch Office in Organization Work.*—It is a necessity for an agency to have a habitation from which to secure and direct its forces. It is, therefore, customary for the companies to establish and maintain branch offices. These should be owned and controlled by the company in order to avoid any conflict of interests. The managing agent whose province it is to organize the surrounding territory is given the use of the office. If properly directed and controlled by the home office, the branch becomes a source of strength. If, however, the managing agent sets himself up in business in such a way as to control the organization established on behalf of the company with the view of its transfer to himself at will, then it is a source of weakness and frequently results in unfair treatment of the company's agents. The latter fact has led the intelligent agents of this country to insist upon having their



contracts, especially when provision is made for renewals, approved by the company. Managing agents who are more concerned in creating an organization for themselves than for the company they represent, are just as likely to betray the agents at some future time as they are to betray the confidence of the company which entrusted them with the organization work on its behalf.

*Agency Contracts.*—The respective rights of company, managing agent and solicitor should be clearly and distinctly set forth in the contract between the parties. The duties of the agent, or managing agent, as the case may be, should be unmistakably defined, his compensation clearly set forth, and his powers fully described. The form of contract which does not provide penalties for the non-fulfilment of its terms, indicates want of care on the part of the framers of the same and should put agents on notice of incompetent or, to say the least, careless management.

## V.

### *Management of Agency System.*

*General Problems in Agency Management.*—A new company is confronted with an entirely different problem from that of an old established company. It has an open field, having both managing and soliciting agents to select, and is not handicapped by existing contracts in its determined line of action. It is here that the superior knowledge and experience of the home office management can safeguard and protect the interests of the company in the future. It cannot have its own way in all respects because it has the old established companies to compete with, and through such competition is sometimes forced to enter into contracts contrary to the better judgment of the home office management. Good management, however, will always be willing to lose an agent rather than make a contract in conflict with the plan of action adopted, otherwise, sooner or later, the business will be demoralized. In the present state of development of life underwriting, no company is justified in making a contract with any agent or managing agent giving exclusive control of territory, unless such contract provides for a contribution to the yearly net increase of business and imposes a penalty for failure.

An old established company has vested rights of agents to contend with, according to their respective contracts. A change of plan or policy means a revolution in its agency force. Hence, the importance of having the rights of the respective parties to a contract clearly defined therein.

*Limit of Cost of New Business.*—The mathematical determination of the premiums for the purpose of paying losses also comprehends determining the portion of premium available for the cost of procuring new business and of carrying out the old contracts. Therefore, there is a mathematical limitation beyond which the cost of new business cannot go without becoming unprofitable, and a few companies have incorporated such limitation in their policy contracts. It is eminently proper for any agent to ascertain from the company what mathematical provision has been made in the premium rates for securing new business. The agent, who takes all the chances of success or failure, has a right to see to it that his compensation is gauged by such mathematical allowance. Such allowance is fairly indicated by the average commissions paid by all companies. On the other hand, the companies that far exceed the average may be fairly assumed to be doing injustice to their policyholders, which in the end militates against the agent because it makes it hard for him to get business. Again, a company which pays considerably less than the average may discriminate either in favor of the home office management or in favor of the policyholders, or both, at the expense of the agent. Generally speaking, however, the companies which provide the smallest compensation to agents do the best for their policyholders, so that agents can readily make up in quantity of business and in its staying qualities what they lose in the rate of commission or compensation.

*Determination of Amount of Business to be Written.*—The agency management should ascertain from the executive management the policy of the company with reference to volume of new business. Such policy varies according to the ideas and judgment of the executive management. In some instances there is no limitation. Agents are urged to put forth their best efforts and inducements are offered for volume. The matter of caring for the business in the future, after it has been written, is given only secondary thought, volume being regarded of the first importance. In other companies care of the business is given the first place and, in a way,

the securing of it second place. That is to say, unless the management can care for it in a manner entirely satisfactory to all concerned, it prefers not to secure it. The time will come in the history of every life insurance company when it will be able to do little more by way of new business than make good the deaths, surrenders, matured policies, cancellations, etc. The young company can and should have a much larger net increase in insurance in force than the old company, and after a company has been established ten or more years a net annual gain of 10 per cent., by which a company will double its business in about eight years, should practically be the limit of the ambition of the management in order properly and economically to care for the old business, and the time will come in the history of every company when such percentage will be too large.

*High Pressure Methods.*—The ambition of company management to excel in volume of business has led to "high pressure methods" which are a menace to the life insurance business. These had their origin in a peculiar form of contract made with agents. Agents were given salary and a commission, and, if they produced a certain volume of business, a bonus in addition. In order to produce the volume of business enabling the agent to secure the bonus he was led to rebate his commission. This was done on the theory that by increasing the volume of business so as to earn the bonus, he could afford to divide commissions with his patrons. This and similar methods were employed to increase the volume of business until the practice became a generally recognized evil. Then when its generally disastrous effects were apparent, companies, legislatures, life underwriter associations, and the agents themselves, combined in various efforts at correction. But until policyholders realize that rebates result in a costly selection against the company at their expense, the evil will not be cured. The loading to compensate for obtaining new business, in view of the fact that living expenses have been increasing for a number of years, is no larger than it should be properly to compensate the agents, and any scaling or method that deprives them of that compensation works injury to them. Any company that encourages rebating for the sake of volume with the expectation of correspondingly reducing surplus earnings is not faithful to the trust committed to it, since surplus should be paid to policyholders in dividends.

*How Agents are Remunerated.*—The general practice, which in the end is most satisfactory, is to pay agents a commission on the first year's premium and, under certain contingencies and conditions, a renewal commission. A brokerage commission is one which is paid the first policy year only and no compensation thereafter. When a company or managing agent assumes the risk of paying a salary, such salary cannot be paid any longer than the business written by the agent justifies or warrants and, therefore, the salary is the equivalent of a commission. In many cases, when a contract is made with a solicitor on a commission basis, such solicitor is allowed a stipulated advance against the whole or a part of his commission earnings with final settlements monthly, quarterly, or as the contract may provide. A company cannot justly pay for business which it does not receive and if the advances are not made good by commission earnings the services of the solicitor are dispensed with and he becomes legally liable for the deficiency.

The most proficient agents prefer to make straight commission contracts with renewals, without any salary or advance complications. It follows, inasmuch as the company in such cases assumes no risk, that those agents secure the best terms.

## VI.

### *The Agent is the Unit of the Agency System.*

*The Ideal Life Insurance Solicitor.*—A life insurance company must be known and judged largely by the character of its representatives: hence, the class of solicitors govern administration and, conversely, ideals of management must govern the type of solicitor sought. The ideal solicitor is not one who engages in the business as a makeshift while looking for something else, but one who chooses the work as his profession because it appeals to him. It is true that a great many men who have become successful solicitors began under some force of circumstances, and not altogether as a matter of choice; but they soon became interested and proved their adaptability to the business. The changed conditions have made it necessary for the solicitor to make some preparation for his work. To begin with, he must have the foundation of good character, truthfulness and honesty of purpose, and, as already stated, suffi-

cient education to be able to understand and comprehend the contracts and intelligently explain them. With these qualifications he must combine reasoning faculties, energy, good judgment and perseverance.

*The Solicitor's Triple Responsibility.*—First of all, the solicitor owes it to himself and his family to secure a proper reward for his efforts. Second, is his responsibility to his client to supply him with the kind of a contract best suited to his needs, and to see that the client's statements, which form the basis of the contract, have been fairly and honestly recorded, and that he thoroughly comprehends the contract proposed to him. Thirdly, he owes it to his company to see that all the facts are properly, fully and honestly placed before it before the contract is made, to safeguard it against concealment or fraud, and to secure for it all to which it is entitled under the terms of the contract.

*The Ideal Agency Manager.*—The problem of organization and management of the agency system must in the main be solved by the agency manager. The ideal manager is a man who feels a sense of duty and of responsibility to all concerned, one who has a wide range of experience, who is a student of human nature, who is a diplomat, one who rules kindly but firmly, who cannot be swerved or diverted from a sense of duty, one who does not hesitate to say "no" when improper and unbusinesslike requests are made, one who in his conduct is an example of probity, honesty, energy and application to duty. The ideal agency manager takes nothing for granted. Agents who come with great promise must guarantee performance or be paid only in proportion to performance. He must be a resourceful man, must know how to devise ways and means to secure the material, to organize the material, and to manage it properly when once secured and organized. There is no formula for organization or management but that which is embodied in the man selected as agency manager. The right man will always find the right way.

## LIFE INSURANCE INVESTMENTS

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In discussing the subject of life insurance investments the following topics will be briefly considered:

*First.*—How life companies differ from other investors, such as individuals, trust companies or banks.

*Second.*—Requirements of the statutes of the different states.

*Third.*—Investments regarded as most suitable for life insurance companies.

*Fourth.*—Management of investments, by whom placed and the precautions taken.

*Fifth.*—The extent of life insurance investments.

*Sixth.*—Taxation of the assets.

### *How Life Companies Differ from Other Investors.*

The individual investor, unless acting as trustee, is under no restriction, and is governed merely by the dictates of his own sweet will. For our purpose, therefore, we need not discuss the individual investor.

Aside from the detail of circulation, with which every one is more or less familiar, a national bank devotes its attention chiefly to the reception of deposits from business firms and others, and the lending of money to them. It is also a buyer of commercial paper. Moreover, the bank which credits your account with cash deposited at three o'clock to-day must, if required, prepare to meet your check to-morrow. It must, therefore, keep in actual money a sufficient proportion of its resources to supply these daily needs. Further-

more, as deposits are drawn upon in times of monetary pressure, a large part of its assets must be of that kind which can be quickly converted into cash, such for instance as government, state, municipal and standard railroad bonds.

The trust company acts as trustee, executor, administrator, guardian, attorney, etc.; its much advertised advantages over an individual in these capacities being that the trust company does not die, presumably has no bad habits and is customarily more responsible than is the individual.

Trust companies also take money on deposit. They do not issue bank notes, and, generally speaking, are not dealers in commercial paper, their loans being almost always protected by pledge of collateral security. Some of them, for instance those of Massachusetts, like the savings fund societies, are restricted as to the investments they may purchase. This is not the case in Pennsylvania. Many of their trusts are distributable in kind; others become payable at fixed dates in the distant future, thus affording ample time to prepare for settlement. Trust companies consequently become buyers of real estate mortgages, municipal and corporation bonds, bearing a fair rate of interest, and which, while good, do not, for their purpose, need to be instantly marketable.

With respect to life insurance companies, the most progressive ones issue insurance contracts promising loans, or cash surrender values upon demand of the insured. To fortify themselves against this feature of the business—against these obligations maturing on demand—the companies which issue them carry a safe proportion of their fund in collateral loans and other investments which are readily exchangeable for cash.

Aside from these demand obligations, the chief life insurance liability is for the payment of maturing endowments and of death losses. Of the maturity of an endowment policy, the company has from ten to twenty or more years' notice. Death losses, on the average, occur so closely in accordance with the yearly estimates, so safely within what are technically known as the "tables of mortality," that life insurance investments do not need to be so quickly salable for cash, as is the case with those of most financial institutions. Life insurance companies are not closely restricted in the territory to which they must confine investments. They may purchase almost anything which could be lawfully owned by a bank,

a trust company or a savings society, except that they do not buy commercial paper, lend upon personal credit or advance money without collateral security. For this reason, one never finds the name of a life insurance company upon a list of unsecured creditors.

The banker must keep within easy reach a fair amount of money for emergencies. Throwing out the cash surrender and policy loan items, the life insurance official, on the contrary, has no emergencies to meet. The daily claims against him are so accurately foretold that he has no need for a large cash balance, but rather makes it his duty to keep this item at the lowest point consistent with convenience; thus idle and unproductive balances by most companies are avoided. We will now consider the second specification:

*Requirements of the Statutes of the Different States.*

Most of the larger companies—those companies which have stood the test of time, and which have asset accumulations of importance—were established long before life insurance had become generally understood. Their charters were framed before knowledge was acquired respecting many features of the business later found essential, and were in some instances so framed as inconveniently to limit the company's selection of investments. In many cases where they have been found cumbersome, these old charters have been amended to conform to modern needs, and the companies have thereby gained larger liberty of investment purchase.

Generally speaking, it may be said, as already intimated, that there is no important statutory restriction upon the subject of purchasing securities. The various companies, however, transact the business of life insurance in almost all the states, and the states in turn have departments of insurance—for the most part under trained insurance men, authorized to revoke the license in that state of any company not able to respond to the strictest test of solvency. There is a large discretion vested in each state insurance commissioner as to what asset shall and what shall not be accepted at its face. This undefined and to some extent uncertain standard of personal judgment—this vague, unmeasured, discretionary power of rejection—perhaps more than any statutory requirement could do, causes



the life insurance management to be extremely critical as to what form of security shall and what shall not appear upon its list.

There is now much talk of federal instead of state supervision over life insurance. The United States Supreme Court decisions so far have not been broad enough to include life insurance within the legal definition of what is known as "interstate commerce." Until this court assigns a wider meaning to that term, the proposed federal supervision is not likely to occur.

We now come to the third and fourth topics of our inquiry, namely:

*Investments Regarded as Most Suitable for Life Insurance Companies,*

and

*Management of Investments, by Whom Placed and the Precautions Taken.*

The executive staff of a large life company is usually composed of men whose energy is not expended upon the lesser details of corporate management. It seems to be their aim, however, to have each department conducted by some one who is a specialist in that particular line. This specialist in turn must have trained and efficient men under him, not only to assist, but to act as "under-studies"—so to speak—men who are qualified to assume any responsibility which may devolve upon them, so that the absence or inability of any one man shall not stop the wheels of business. The financial man, for instance, is not expected to have specific knowledge of the agency, the mathematical or the medical department, each of which is conducted by some one who has, perhaps, devoted his life to the study of his own particular specialty.

With respect to the selection and purchase of investments it may be said that in addition to real estate mortgages, which are among the most important, and will be treated later, investments regarded as most suitable for life insurance companies, appear to stand as to safety in about the following order, namely:

Government, state and municipal bonds.

Standard railroad bonds.

Equipment or car trust bonds.

Bonds of electric railways of developed earning capacity.

Bonds upon public utility enterprises.

Bonds of industrial corporations, and

Stocks of corporations.

Real estate will be considered later on.

There are objections to each class, and it is the duty of the officer who buys to be so familiar with each objection that it may be given full weight during consideration of a purchase.

The first four named—government and state bonds, and municipal and standard railroad bonds of highest grade—produce an interest return so low that the margin, if any, is quite small over the interest required upon the company's reserve. This is the objection to investments of the highest quality, yet all good companies buy them, in order to supply a large proportion of what are known as "quick assets"—assets which can be converted into cash with least delay and with least danger of loss through serious depreciation.

*Equipment or Car Trust Bonds.*—Rent for the use of rolling stock is now considered one of the first charges upon the earnings of a railroad company. Equipment bonds, therefore, issued by strong railway corporations and secured by trust deed upon rolling stock, are at present a favored form of investment, but are open to the objection that they do not furnish a sufficiently permanent occupation for the fund. Equipment or car trust bonds are issued by the railway companies, for from 70 to 90 per cent. of the equipment's cost, and provide for annual payments of 10 per cent. or more, in reduction of the principal debt, which payments will retire the equipment bonds in from one to ten years, and class them as temporary investments.

It is made the duty of the trustee, through which these car trust bonds are issued, to see that the cars are kept in good repair, that new ones are purchased, marked and numbered, in place of those destroyed by fire or accident, and that an ample amount of fire insurance is always kept in force. The vital point, to insure the safety of an investment in car trust bonds, is the trustee's rigid enforcement of these conditions. Banking houses which are most successful in creating a market for car trust bonds are, or should be, those which are most noted for the care which they require to be taken by the trustee in the carrying out of the letter and the spirit of the contract. As is known, there is now pending a political agitation

upon the subject of railroad rebates in return for the use of private freight cars owned by large shippers. This inclines investors to disapprove car trusts not issued by the railway companies themselves.

*Bonds of Electric Railways.*—Bonds upon non-competitive street railways located in densely populated and rapidly growing cities are looked upon with favor, provided the net earnings are satisfactory and the railway company's franchise is not defective.

Bonds upon suburban and interurban electric railways are rarely purchased by the life companies until the properties have been constructed a sufficient length of time to demonstrate an earning capacity ample to pay operating expenses, interest and a considerable surplus, the objectionable feature in connection with this form of security being that the depreciation of the plant of an electric railway is thought—by some persons well informed—to represent a sum of money almost equal to the average interest upon its debt. If this be true, it is obvious that the electric railway company's bond should rest upon a property producing net earnings of approximately double the interest charge.

*Bonds Upon Public Utility Enterprises,* such as gas, water, electric light and power companies, are not specially attractive to the life insurance company. They depend so much upon legislative franchise, and are so open to attack through this channel, and through misunderstandings with municipalities involved, that life insurance managers look upon them with favor only after the most exhaustive investigation.

For instance, it may be said of water works plants that though water is an absolute necessity, and the plants furnishing it have therefore been thought sound as a basis for investment, yet water plants—erected and operated as private enterprises—have been a most fruitful source of litigation, and of resulting loss to bondholders.

*Bonds of Industrial Corporations* are rarely purchased by the most conservative companies. They are so dependent upon that personal feature which stands for good management and so affected by industrial depressions that, with few exceptions, they are disapproved.

*Stocks of Corporations.*—The advertising pages of the current magazines reveal an emphatic statement by one well-known company that it is now the owner of no corporation stocks of any description.

From this we may safely conclude that, for the present, stocks are not being largely purchased by the conservative life insurance companies, though some of the companies have greatly profited by the rise in value of their stocks in banks and trust companies.

*Real Estate.*—Real estate is hardly considered an investment by the life insurance company, except as incidental to the property's other uses. Many companies own office buildings in different parts of the country. In addition to furnishing space for the conduct of the business, some of these buildings produce an adequate net interest return—many of them do not—but they all serve the original advertising purpose of keeping the company before the public eye.

Real estate, other than these office buildings thus voluntarily acquired, usually consists of those properties purchased, perforce, under foreclosure of real estate mortgages, and reflects good or bad management, as the case may be—in the company's mortgage department, ownership of a very small percentage of foreclosed real estate being considered an evidence of good management.

*First Mortgages Upon Real Estate Security.*—This line of security which, as yet, I have scarcely mentioned is one of the most important of all. It is this portion of the investment business which, well managed, will produce the largest interest return commensurate with safety; which, properly conducted, imposes upon the investor the smallest ratio of loss, but which, nevertheless, requires for success the closest attention to a great multitude of details.

In the purchase of real estate mortgages, the company avoids those which rest upon speculative ventures, or even upon good property if it be of a kind which depends too much upon personal management; and if an exception be made in favor of such a property, it is generally because there is offered an unusually large margin of value as an offset to this risk.

In large cities where real estate is quickly salable and values are well established, the investors lend as high as 60 to 80 per cent. of the property's value. Here undue competition among investors reduces rates—makes the interest return too low—and increases loss by reason of a diminished margin, *i. e.*, in the large cities, where money is most plentiful and most urgently seeking investment, it sometimes very improperly becomes a question as to which investor shall lend upon a given property, at the lowest rate, the largest sum

of money. Most of the life companies wisely avoid this dangerous form of competition. It may be here remarked, however, that the money lenders appear to be almost the only capitalists who have not yet developed the good sense to consult or combine for the sake of safety and a satisfactory interest return.

Outside of large cities, governed by the special circumstances of each particular case, the mortgage will represent from 35 to 60 per cent. of the property's supposed market value.

The personal element should enter largely into consideration of a mortgage or any other loan. The investor naturally prefers to lend to the successful man, because the successful man is able to repay the debt. Perhaps this feature may be best expressed by giving a financial man's jocular answer to a friend applying for a loan upon collateral security. He said to his friend: "If you really must have this money, I will not lend it; but if you can thoroughly convince me that you do not need it, I will let you have it with great pleasure."

Life insurance corporations, as a rule, carry in real estate mortgages—first mortgages—from 20 to 50 per cent. of their entire assets—few of the important companies own less than 20 per cent., and a few—western companies chiefly—carry more than 50 per cent., the aggregate real estate mortgages on January 1, 1904, being five hundred and seventy-three millions of dollars (\$573,262,009), about 27 per cent. of the total assets.

The well-managed life insurance corporation, investing largely in mortgages, keeps in its employ, in addition to an office force, a sufficient number of men of the highest order of ability, whose duty it is to examine and pass upon the merits of properties offered as security for mortgage; to frequently inspect properties covered by mortgages already owned; to report promptly any change of values due to a change of business centers, or to neglect of improvements and repairs or to other causes. A competent office force is needed for the prompt collection of interest; to watch carefully that sound fire insurance is furnished and renewed before the date of expiration; to ascertain that the property has not been sold for non-payment of taxes, but, on the contrary, that taxes and assessments for paving and other improvements are promptly paid on or before the final date fixed by statute. This requires some knowledge of the varying tax laws of many different states.

In short, while the taking of real estate mortgages entails a great degree of caution, a large amount of labor and an office force of high efficiency, yet the very fact that the small investor cannot afford the expense of these numerous precautions makes it possible for the life insurance corporation to collect an acceptable interest return through holding a large proportion of its assets in safe mortgages upon real estate security, and, at the same time, to avoid those annoying fluctuations in market value which are inseparable from investments placed in other channels. The fact that mortgages are not "quick assets" is the chief reason for not carrying a much larger proportion in this description of security.

#### *Precautions Taken in Purchase of Securities.*

One of the most important is to buy from long-established firms of highest standing—men who have the ability, the means and the facilities to ascertain the facts, and the candor and integrity to report them. Aside from this, during years of experience and observation, the studious financial man endeavors gradually to absorb a general knowledge of the affairs of borrowing corporations, and especially a familiarity with the surest way to find the facts.

With most railroad and corporation bonds, the cost or value of the property as compared with its bonded debt is one of the most essential points and one of the most difficult to ascertain. Hardly second to this are the items of gross earnings and of expenses of management and operation and consequent net earnings applicable to interest payments. Perhaps one of the most suspicious items is an abnormally small expense ratio, while the construction account remains still open and during the time that bonds are being offered on the market. What is industriously searched for and rarely found, at a fair price, is a bond representing but a small proportion of the cost of a property which, though admitting an ample expense account, is still able to produce earnings sufficient to pay expenses, interest and a large surplus for the stock.

Time does not permit a recital of all the precautions taken to see to the legalities with respect to investments purchased. Perhaps it may suffice to say that there is employed a force of trained lawyers whose duty it is to assume in each case the labor and responsibility of a thorough investigation, in order to prove each mort-

gage to be a first incumbrance upon a good and marketable title, and each bond a valid, binding and lawfully issued obligation. This is the conclusion which must be reached in every case before paying out the money. We now come to the fifth specification.

*The Extent of Life Insurance Investments.*

I am indebted for my insurance facts to the "Compendium of Official Life Insurance Reports" for the two years ending January 1, 1904. This was the publication at hand, and later data would have only changed the figures without altering their relative importance. To bring these figures up to date would add about 10 per cent. to the totals I shall use.

There are ninety-two companies mentioned—of various grades—seventy-nine of them having admitted assets of \$2,055,555,548 (in speaking, I will disregard odd figures as confusing), admitted assets then of two billions; assets not admitted, seven millions (\$7,110,701).

At this point it may be well to say that the two billions of assets are invested in approximately the following proportions:

	PER CENT.		PER CENT.
Bonds .....	40	Cash .....	4¾
Mortgages .....	27	Collateral loans .....	3
Real Estate .....	8	Other investments .....	3
Stocks .....	7¼		
Premium notes, etc. ....	7		100

This is the division of the total. The individual companies hold different proportions.

It is stated that American farm products reached, in 1904, the huge total of \$4,900,000,000, nearly five billions of dollars. These farm products are the output of a territory extending from the Atlantic to the Pacific—the result of the labor of millions of men. The life insurance accumulations aggregate more than 40 per cent. of this vast total. Here we find a striking illustration of the greatness of this fund.

In order that we may form some conception of this great sum of two billions of admitted assets, let me say that, equally divided, it would represent over \$25 for each man, woman and child in this

country; it is nearly three times the combined capital of the 5,134 national banks; it is two-thirds of the total of savings bank deposits; it greatly exceeds the amount of our national debt; it is nearly double the value of the year's product of all minerals in this country; it is nearly 50 per cent. in excess of the gross receipts of all the railroads; it is more than the entire world's production of gold for the last six years.

It will show the relative importance of the companies if attention is directed to the fact that 99 per cent. of this great fund is controlled by thirty-one companies, and 1 per cent. only by the other sixty companies.

As permanence and solvency are the essentials of success in life insurance, this concentration ought not to be hastily condemned as altogether undesirable. The possession of 99 per cent. of the insurance wealth should surely furnish means to attract the higher grade of talent to the companies thus strongly fortified.

The detailed information regarding their affairs, furnished by the life insurance corporations, and the publicity given this detailed information, are greater than any other industry affords. The supervision over this industry, exercised by the various state insurance departments is—as it should be—more rigid than that exercised over any financial, commercial or transportation interest. This publicity, this rigid supervision, this veto power over the action of the management, ought to be sufficient protection to the public against any now existing evils of this concentration, and yet the control of \$1,235,000,000—60 per cent.—of this fund by four companies is placing upon a very few men a grave responsibility and presenting to them a serious problem of the future.

To firmly fix in mind the distribution of this insurance wealth, let me recapitulate. The total on January 1, 1904, was in round numbers \$2,055,000,000—60 per cent. held by the four large companies, 39 per cent. by twenty-seven companies of more moderate size, and only 1 per cent. by the remaining sixty small concerns.

To attempt to express sentiment in terms of money seems questionable taste, but these enormous assets appear to lose their mercenary character when we reflect that they are gathered together to perpetuate the American home; that they are a product of the thrift, the energy, the self-denial of the American bread winner; that they stand in token of his sturdy, sterling character while liv-



ing, and become an almost sacred tribute to his memory, after he has gone.

### *Taxation.*

This vast accumulation has been found wonderfully attractive to the tax gatherer. Those of us who are connected with purely mutual companies—companies which have no capital stock and which are not organized for profit—are at a loss to understand why these mutual companies should be so largely taxed.

The mutual company is composed of individuals, each of whom, in connection with other interests, may be presumed to pay his full share of national, state, municipal and other taxes.

I do not say there is, but there may be, some reasonable defense of a moderate tax upon the small speculative portion of a tontine policy's accumulations, but there is none for taxing the great bulk of a mutual company's assets, held for the protection of its insurance contracts.

Under an intelligent system of taxation, the tax is placed upon the profit: you do not tax a loss. In the purely mutual company, there's no such word as profit; the company performs its function with no such object; insurance is furnished at its actual cost.

The theory which underlies the formation of a purely mutual life insurance company, is that it is simply a means, for the equal distribution of an inevitable loss. Let us suppose a combination of ten, one hundred or one hundred thousand men—the number has no significance except to produce an average—let us suppose each of these men agrees to pay a certain sum for the relief of the families of those who die—to restore to each family that of which it has been deprived, the insurable value of its departed head. Elaborate it, complicate it with varied forms of policies, safeguard it with actuarial tables as you will, and still the basic fact remains, beyond dispute, that each member of a mutual company, by payment of his premium, merely contributes that sum which represents his share of loss. Taxation of this, is so much added to the loss, or so much subtracted from the insurance benefit. It is difficult to understand the justice, the wisdom or even the expediency of putting a tax upon a loss and thus adding to its burden.

Whatever the original intent, the ultimate result of the formation of a mutual company is to prevent the families of its members from becoming a charge upon the public. Every dollar of tax upon a mutual company, therefore, antagonizes public welfare, in so far as it tends toward the defeat of this beneficent result.

## LAPSE AND REINSTATEMENT

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BY J. H. JEFFERIES,

Home Office, The Penn Mutual Life Insurance Company.

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The procurement of new business and its retention are the two great problems of life insurance management. These two branches of our work are closely related, or interrelated, and upon their proper administration depends the development and growth of a company and its consequent success, measured in results which will be equitable alike to persisting policyholders and to those whose insurance terminates by death, maturity or withdrawal.

Life insurance companies are organized for the purpose of providing protection against pecuniary loss through death, and however they may differ in plan of organization, charter or by-law they are essentially alike in that they are associations of individuals uniting in a common cause against man's ancient and familiar enemy.

Old-line, or level premium companies, are divided generally into two classes; first, mutual companies, having no stock capital, and which are controlled by the policyholders themselves, or as they are more properly designated, the members; and, second, stock companies, where the control of the company is with the shareholders, and in which the capital stock is held as an additional security for the protection of policyholders. Practically, however, there is little difference between the two classes, for the reason that the business generally, so far as it relates to the actual matter of insurance, is conducted upon the mutual plan. Criticism has been made of the stock plan because of the opportunity it affords to those who control the majority interest for a selfish manipulation of policyholders' accumulations; on the other hand, the same criticism might be made, and with equal propriety, with respect to those companies organized on the mutual plan, whose charters permit the use of proxies in voting for trustees.

All this is aside from our subject, perhaps, except as it leads up to this proposition, that in all companies, however constituted, a just regard for the equities of those who associate themselves together for reciprocal protection, whether they are termed members or policyholders, or whatever else they may be called, and whether continuing or retiring, should be the first consideration of every life insurance manager in the faithful execution of the sacred trust which the nature of his services imposes upon him.

A policy of life insurance is a contract, based upon the same common law principles which are fundamental to every other legal contract or binding agreement. There must be a subject matter upon which the minds of the parties can agree; there must be an offer on the one side and acceptance on the other; there must be no mistake or misunderstanding to render it voidable; it must be free from the vitiating influences of fraud; and, finally, when the body of the contract is thus constructed, there must be a consideration to give it life. Blackstone defined a policy of insurance as "a contract between A and B, that upon A's paying a premium equivalent to the hazard run, B will indemnify or insure him against a particular event." This definition, though written nearly one hundred and fifty years ago, is true to-day, for no matter what may be the terms of any particular policy with respect to time or manner of payment of the sum insured, whether it be gold bond, trust certificate, limited payment, whole life, endowment or what-not, the essence of every policy is the contractual relation between the parties, based upon an equivalent consideration or premium. The actuary will describe to you the factors of mortality, interest and expense loading which go to make up the sum of a premium, but for our purpose it will be sufficient to look upon it in its entirety, always keeping in mind, however, that upon its payment on the dates agreed upon is predicated the very life of the contract itself. The premium is, therefore, a continuing consideration, renewable from year to year. The option of renewal is always with the policyholder, and in this sense a policy is a unilateral contract. The insuring company must fulfill its conditions so long as the premium is paid, and, under certain conditions, for many years thereafter, while the policyholder may renew or discontinue as he may choose, or as circumstances may compel. When a premium is not paid or otherwise settled on its due date, the policy is said to lapse, subject always

to its non-forfeiture provisions, of which we shall speak more fully later.

It is interesting to note the etymology of the word "lapse." It is derived from the Latin word *lapsare*, to slip, to fall, to stumble, and this original meaning of the word is aptly descriptive of those whose misfortune it is to fall by the way, and who, whether through choice or necessity, thus cast aside the burden of the obligation to provide for those who are dependent upon them.

As what I shall have to say on the subject of lapse and reinstatement will have particular reference to that form of insurance association, whether stock or mutual, known as old-line or level premium companies, a word in explanation of that term will be appropriate at this point. Briefly, a level premium company is one in which the premium or annual consideration for the benefit to be received is leveled to an equal annual charge by the application of the law of average to the mortality table selected. When this is done it follows that the annual charge will be more than sufficient to pay for the risk incurred during the early years of the policy, when the chances of dying are relatively small. This overcharge is necessary, however, in order that the excess accumulated at compound interest, may be adequate to make up the deficiency in the later years, the premium itself not being competent to carry the load as the certainty of death becomes more imminent, for while "the young may die, the old must." Each member is thus building a self-insurance fund, and if a member survive the age limit contemplated by the mortality table in use, the sum of his net premiums, at the rate of interest assumed, will equal the face value of his policy. It is apparent, then, that from the first year of the contract, and during the currency of the insurance period, the company holds in trust for each member, an ever-increasing fund, or as it is commonly called, a reserve. In the event of the termination of the contract, this reserve fund is variously applied. If the termination be by death, the reserve, together with whatever sum is then necessary to bring the total to the amount assured, is turned over to the beneficiary under the policy. The difference between the reserve and the amount required represents the cost to the company. Where policies terminate by maturity, the date of termination having been predetermined, so far as the endowment feature is concerned, the reserve will, of course, equal the amount agreed to be paid.

In the case of terminations by expiry, as under term insurance contracts and extended insurance, the rate charged carries the insurance to a certain point, beyond which there is no remaining value, the credits and debits balance, and the account is closed. But what of those who withdraw before death or maturity, and what disposition shall be made of the reserves which they have accumulated? These are the questions to which our discussion naturally leads, and in order that some idea of the importance of their proper solution, both to company and policyholder, may be obtained, it will be well at this point to consider for a moment some figures compiled from the statements of all the companies reporting to the various insurance departments as to their business in 1903, the latest statistics available. These companies showed insurance in force on January 1, 1903, amounting to \$8,698,000,000. They issued during the year \$1,908,000,000 of new insurance. These two items amount to over \$10,606,000,000. The insurance in force at the end of the year was reported at \$9,569,000,000, showing that the total terminations from all causes during the year reached the sum of \$1,037,000,000. Of this amount, \$112,121,000 was terminated by death, \$27,000,000 by maturity, \$13,800,000 by expiry, \$181,180,000 was the sum of new policies "not taken," while the aggregate withdrawals by surrender and lapse amounted to \$530,494,000.

We have already noted the effect of terminations by death, maturity and expiry upon the policyholder's reserve. With the "not takens" we need have little concern. They come still-born into the insurance family. They represent chiefly disappointed hopes on the part of the solicitors who wrote the applications. They had only the form of being, for into them was never breathed the vivifying influence of the premium consideration, and they are crossed off the policy register with regret only for what they might have been.

Lapses, on the other hand, represent cases which have been nourished through infancy with the milk of new commissions, medical fees, agency expenses, and mortality risk, and their going out means actual loss to a company when the withdrawal occurs within two or three years after issue, or to keep up our simile, before the new members of the insurance family become contributing or self-supporting. In this connection it should be pointed out, however, that the gain from light mortality among selected lives during the first years of the risk offsets, to some extent, the initial expense.

Statisticians tell us that from 17½ per cent. to 18 per cent. of new issues will fail of renewal upon the first anniversary of the policy, 8 per cent. of that which remains will lapse when the third payment is due, and thereafter in reducing percentage from year to year as the policies become older.

Lapse ratios are calculated on the relation which the amount thus terminated in any year bears to the mean insurance in force, and as lapses have been shown to be most frequent during the early years, it follows that a company producing a large new business will show a larger lapse ratio than one writing a comparatively small new business, but with a great number of old policies on its books. The managers of progressive companies, however, consider it their duty to extend the benefits of insurance to the largest possible number of insureds that a consistent regard for safety and reasonable cost to all will permit, and if in doing this some are attracted who will later withdraw, their withdrawal is looked upon as one of the penalties of progress, but nevertheless a thing to be controlled or avoided as far as possible.

In any comparison of the experience of companies in this regard, it is also important to keep in mind that the same methods of book-keeping do not obtain in all companies. For instance, one of the New York companies reported terminations "by expiry" in 1903 as \$74,358,000, and "by lapse" the sum of \$7,005,000, while another company, practically its equal in size and writing the same class of business, reported expirations of only \$998,000 and lapses amounting to \$62,012,000. In one company a member who fails to renew by the payment of the second year's premium is evidently given a few days' extension, and, if the overdue premium is not settled at the end of the extended period, the termination is said to be "by expiry;" the other company calls a lapse a lapse. Obviously any comparison based upon such divergent factors would be false and misleading. Comparative exhibits, and especially those having to do with ratios of this to that, or of that to this, should be carefully analyzed before making any deductions as to the relative merit of different companies.

Much speculation has been indulged in as to the causes of lapse. They are, to a large extent, natural, inevitable and unavoidable. Misfortune, loss of position, unrealized expectations, all contribute to the volume of withdrawals. Over-persuasion on the part of zeal-

ous solicitors is responsible for a large portion. Again, many men take insurance as the result of impulse rather than conviction, and, like New Year's resolutions or the keeping of a personal cash account, it is soon tired of and neglected. The seed fell on stony ground and sprang up, but the sun scorched it because it had not much root and it withered away. The thrifty man, whose insurance is taken out because of a deeply rooted conviction of its value, will continue, while the improvident will lapse.

It was at one time generally held that lapsing members exercised an adverse selection against a company in that only those who were in good health would retire and the unhealthy or impaired remain, and that the eventual result of this selection would be an increased mortality experience. While there is no doubt that there is a certain degree of truth in this view, it is unquestionably the fact that the main cause of lapse is financial embarrassment. On the other hand, those who sustain their insurance are the prudent and prosperous, who are generally the most desirable risks, not only because of their ability to pay, but also for the reason that the same qualities of prudence and economy which engender thrift, work to promote their physical well-being also, and their continuance operates to maintain an average mortality as against the adverse selection to which we have referred.

In any honest inquiry into the causes of lapse, our eyes should not be closed to the effect of the improper methods employed by some solicitors to obtain new business. By improper methods, I mean misrepresentation of policy contracts, such as selling a limited payment life contract for an endowment, rebating, twisting a policyholder from one company to another, over-persuasion to assume an obligation which obviously cannot be fulfilled, extravagant estimates, and the like, and they are all prolific of lapse. I do not mean to infer that these methods are peculiar to or are encouraged by any particular company. They force their noxious and unwelcome presence into every field.

It is an axiom of our business that prevention of future lapse should begin when the application is written. A company's reputation in any locality depends largely upon the character and methods of its solicitors. Its officers and field managers may be men of high standing and undoubted integrity, but it will be adjudged worthy or otherwise as it is reflected in the work of the solicitor.



If the mirror be not true a distorted image will be presented. A solicitor who cheapens a policy he is trying to place by rebating a portion of the first year's premium destroys the confidence of insurers in his company. "Easy come, easy go," is an old adage, and true of our work, as of other things, and the natural result of rebated business is seen in the failure to collect the second year's premium. The practice renders full premiums in other cases more difficult of collection and discredits the agent, not only in his own community but at the home office also, for the company requires not only the form of production but the substance as well. If an application is procured in such a manner as to obtain the confidence of the applicant, the chances are that he will consult the agent before withdrawing, or taking other insurance elsewhere.

Having discussed the causes of lapse, I will pass at once from this unpleasant phase of our subject to a consideration of the effect of lapse upon the policy contract itself. In the early days of life insurance in this country the failure to pay a premium on its due date resulted in an absolute and immediate forfeiture, and the iron-clad policies then in vogue exposed a policyholder to the same risk in many other ways. Change of residence or occupation, traveling beyond certain carefully defined limits without previous permission endangered the existence of the policy as a means of protection, no matter how many premiums the insured had paid nor how much he had contributed to the common fund. In fact one old policy is said to have contained the provision that if the insured should die without the written consent of the company, the policy would be void, though, of course, this statement had no other foundation in fact than an awkward phrasing of the policy terms.

The following clauses are quoted from a policy issued in 1847 by a representative American company:

"It is hereby declared to be the true intent and meaning of this policy . . . that in case the said assured shall without the consent of this company previously obtained, and endorsed upon this policy, die upon the high seas, or pass beyond the settled limits of the United States (excepting into the settled limits of the British provinces of the two Canadas, Nova Scotia or New Brunswick), or shall, without such previous consent, thus endorsed, visit those parts of the United States which lie south of the southern boundaries of the States of Virginia and Kentucky, between the first of July and the first of November, or shall, without such previous consent thus endorsed, enter into any military or naval service whatsoever (the

militia not in actual service excepted), or in case he shall die by his own hand, whether sane or insane, or in, or in consequence of a duel, or by the hands of justice, or in the known violation of any law of any of these states, or of the United States, or of any state or county, this policy will be null, void and of no effect."

"And it is also understood and agreed . . . that if the declaration made by the said assured . . . shall be found in any respect untrue, then . . . this policy shall be null and void . . ."

"And it is further agreed that in every case where this policy shall cease and determine, or become or be null or void (except in case of death), all previous payments made thereon . . . shall be forfeited to the said company."

Then follows a clause to the effect that if the policy were assigned without the approval of the company and the assignment endorsed on the policy within thirty days from its date the premiums paid would "*be considered sunk for the benefit of the assurers.*"

In striking contrast to this ancient document, let me call your attention to the form of policy now in use by the same company as illustrating the progress which has been made. On its face it is practically a simple promise to pay in consideration of the premium named. It provides that "from the date of issue it shall be without any restrictions as to travel, residence or occupation." It is "absolutely incontestable for any cause after one year from date of issue, except non-payment of premium;" but in case of suicide, whether sane or insane, within one year from the date of the policy the liability of the company is limited to the amount of the premium paid. Printed in the policy, and made a part of the contract, are the guaranteed extended insurance, paid-up and cash surrender privileges available after lapse at the end of the years stated. This policy is in no sense unusual, but is fairly representative of the contracts now in use by all the American companies.

Three factors have united to bring about the change:

*First.*—Greater knowledge of the science of insurance;

*Second.*—Legislation; and

*Third.*—Competition.

During the period of twenty years immediately preceding the outbreak of the Civil War many of the companies which are now the recognized leaders in life insurance enterprise were just beginning their work. Life insurance in this country was in its infancy. Its

underlying principles were but little understood, and policies were "clad with iron" as a means of protection against unknown and fancied dangers, rather than from any desire to force withdrawals, or to derive profit therefrom. Whatever gains did accrue from this source were regarded as rightfully belonging to the persisting members, and they account in some measure for the large dividend returns of those early days. So competent an authority as Dr. Bloomfield J. Miller is quoted as saying in a recent lecture in the Yale insurance course that "there was nothing in the old days of life insurance which life insurance managers feared so much as the voluntary withdrawal of policyholders owing to their failure to continue premium payments. It was for this reason that companies made policies absolutely forfeitable for non-payment of premium. As the companies grew older and policies more valuable, such an absolute forfeiture began to be recognized as an unconscionable penalty for the discontinuance of the policy contract." With experience, however, came knowledge, and with knowledge wisdom, and in about the year 1860 we see evidences of a recognition on the part of the managers of the equity of lapsing members in the reserves which they had accumulated. Paid-up policies for a reduced amount were allowed in exchange for a surrender of the policies, providing application were made therefor within a stated period. These paid-ups were based upon the purchasing power of the reserve at the attained age of the insured, first deducting a surrender charge or fine for withdrawal. The reason for the surrender charge is obvious if we bear in mind that the whole scheme of insurance is based upon averages; a policyholder is but one of many, and his retirement as a contributing unit affects the status of all who remain. The justice of a reasonable fine for withdrawal has always been conceded and it is still the practice to impose it.

The granting of paid-ups was a decided advance and marked the beginning of a new era in life insurance, for the liberalization of policies operated to remove much of the popular prejudice against the system, and managers began to see that the effect of any adverse selection which might be exerted against a company because of the removal of the penalty of absolute forfeiture for lapse, would be largely counter-balanced by gains in membership.

Coincident with the development of this liberalizing tendency, the newly organized insurance department of the State of Massachu-

setts was exerting a powerful influence in the same direction. Elizur Wright was one of the greatest authorities on the science of life insurance this country has ever produced. He was one of the insurance commissioners of Massachusetts during the years 1859 to 1865, and the Massachusetts insurance reports covering that period are regarded as classics of insurance literature. Mr. Wright strongly advocated the enactment of a law compelling companies organized in Massachusetts to apply the reserve of lapsing members to the purchase of extended insurance. I quote from the report of 1859: "We do not think it would be a law impairing the just obligation of contracts, but quite the contrary, which should enact that hereafter any policy . . . after lapse for non-payment of premium should nevertheless be good against the company in case of death, should that event occur before the value of the policy, at the time the last premium was due, should be exhausted in temporary insurance." And again: "Let the failure to pay the premium as stipulated only release the company from the obligation to insure beyond the time and amount already paid for. Apart from the consideration of justice to the insured, we believe policies under a legal provision of this kind would be greatly preferred and would attract business to the companies issuing them. Profits caught by the trap of forfeitures frighten away ten times their amount, deterring the most prudent people from running the hazard of life insurance." Mr. Wright's arguments prevailed and his recommendations were adopted by the Massachusetts Legislature in 1861, when the first non-forfeiture law was enacted.

The act was subsequently amended in several particulars, and now provides that after three full annual premiums have been paid under a life or endowment policy a paid-up or cash surrender value must be granted.

Following the lead of Massachusetts, the States of California, Colorado, Kentucky, Maine, Michigan, Missouri, New Jersey and New York, and perhaps others, have placed non-forfeiture laws upon their statute books.

The New York statute is fairly representative of the character of these laws, and is in part as follows:

"Whenever any policy of life insurance . . . after being in force for three full years, shall, by its terms, lapse or become forfeited for the non-payment of any premium . . . the reserve on such policy, computed

according to the American experience table of mortality at the rate of  $4\frac{1}{2}$  per cent. per annum, shall, on demand made, with surrender of the policy within six months after such lapse or forfeiture, be taken as a single premium of life insurance at the published rates of the corporation at the time the policy was issued, and shall be applied, as shall have been agreed in the application or policy, either to continue the insurance of the policy in force at its full amount so long as such single premium will purchase temporary insurance for that amount at the age of the insured at the time of lapse or forfeiture, or to purchase upon the same life at the same age paid-up insurance, payable at the same time and under the same conditions, except as to payments of premiums, as the original policy."

The further enactment of laws of this character is unnecessary for the reason that the companies themselves now grant more liberal terms to lapsing members than are required by law. In fact, competition for new business is now so keen that some of the companies appear to have gone to the other extreme and, in some instances, allow values even greater than the apparent reserves surrendered.

In our work, as in every other branch of human endeavor, competition, comparison and criticism are requisite to the production of best results. Had there been but one company, or had all the companies united in an agreement to control the business, the inequitable iron-clad policy of former days would still obtain, except as it might have been affected by the operation of law. However that may be, and despite all that has been frenziedly written upon the subject, the companies are acting independently of each other. In the strife for business each seeks to render its policies the most attractive, and the modern life insurance contract, with its freedom from unnecessary restrictions and unjust conditions is the fruitage of years of competitive enterprise.

We do not know where a recent writer, who is attracting considerable notoriety, obtained his data for the warning which he gives to policyholders not to lapse their insurance, claiming that that is just what the companies desire. Whether conceived in ignorance or mendacity the claim is absolutely false, for not only through the non-forfeiture provisions of their policies do the companies preserve the equities of lapsing members, but they strive to prevent lapse by offering every possible aid to continuance, such as temporary notes, premium loans, cash loans and premium extensions. At the present time thousands of Southern policyholders who cannot pay their premiums because of the low price of cotton, are being

carried by the companies, whereas if strict adherence to policy conditions were insisted upon, they would be compelled to lapse.

Out of fifty-four policies examined, forty-seven allow thirty days' grace within which to pay premiums. The others have no grace clause, but have their own individual practice of aiding in the renewal of business, the general rule being to accept settlement of an overdue premium if tendered within thirty days after date, providing the policyholder is then in good health. My personal view is in accord with the minority practice in this regard. I do not believe that it is wise to incorporate a days of grace clause in the contract. General extensions of this character tend to encourage carelessness and negligence. In any individual case any reasonable accommodation can always be obtained upon written or personal request, and a system which permits temporary notes, premium liens and time extensions affords ample protection to all, while it places the opportunity and responsibility of renewal where they rightfully belong—with the member himself. Justice to all members requires the payment or other settlement of premiums upon their due dates, as the acceptance of overdue premiums will establish a custom upon which policyholders may reasonably rely. Companies have been held liable because of lax methods in this regard, and in some cases the "custom" has been successfully pleaded when death has occurred, and where, as a matter of fact, there was little doubt but that the delinquent intended to discontinue.

Let me turn now and for a few moments only to the subject of reinstatement. It will be readily appreciated that this is a branch of life insurance management demanding the most careful administration. Where a lapsed member desires to revive his insurance the question of motive must be considered, for the query naturally arises: why does he wish to renew? If no conditions were imposed many of those who, after lapse, had become sick or injured, would hasten to renew their membership and thus secure the full measure of the protection they had forfeited or diminished. A company must, therefore, in self-defence require satisfactory evidence of insurability before reinstating a delinquent. In order to protect themselves against impaired risks, the practice of all the companies is to require a certificate of good health, to be signed by the policyholder and local official examiner. Many companies require a written application for revival in addition to the health certificate. A

regularly appointed examiner must be employed for the reason that, however honest the family physician may be, his friendship and sympathy might have a tendency to influence his judgment. A complete re-examination is required by some companies when the request for revival is made more than six months after lapse.

The policies of the different companies contain varying clauses with respect to reinstatement. Out of fifty-four contracts examined seventeen agree to reinstate at any time after lapse, providing satisfactory evidence of good health is furnished and the overdue premiums, with interest, are paid; twenty-one limit the time within which policies may be reinstated to periods ranging from six months to five years after lapse; fourteen have no clause in their contracts, but reinstate upon proof of insurability. Some of the above have further limitations with respect to reinstatement within the deferred or tontine dividend period; while one provides that a tontine dividend policy cannot be restored as such later than sixty days after default. Some of the companies require the payment of any outstanding indebtedness against a policy, as well as the overdue premiums and interest. This practice hinders reinstatement, as it frequently requires the payment of a sum beyond the means of a policyholder. It is a simple matter of bookkeeping to adjust the loan on the reinstated policy, and it would seem to be better practice to require only the overdue premiums and interest and to reimpose the former liens. If the policy, before lapse, was sufficient collateral for the indebtedness it is certainly more than adequate after the payment of additional premiums.

Reviewing the whole subject, it appears that the present practice of the companies with respect to reinstatement is in keeping with the other liberal features of their contracts and shows that they stand ready to welcome back into membership all who are insurable, rather than to take advantage of their temporary necessities or forgetfulness.

Many of the companies have recently organized home office departments for the revival of lapsed policies. The methods employed by the company with which I am connected are as follows: Our agents are requested to enter the names and addresses of all persons who fail to renew in the blank furnished for that purpose. We then forward a letter to these persons, regretting the loss to company and member, suggesting the possibility of aid, and inviting

correspondence. We do not overlook the reply-provoking influence of a two-cent stamp and therefore enclose a stamped return envelope. If this brings an answer the status of the policy is investigated and an offer suitable to the situation is made. Another plan is to write a personal letter in every case where a policy has value, suggesting the disadvantage and loss to the member of discontinuing a policy upon which a stated number of payments has been made, the advantage of retaining the benefit of the rate for younger age, etc. In the past year 30 per cent. of these special cases were reinstated by the home office, while others were revived through the agencies after the receipt of our letter.

When a policy is reinstated through our efforts no reflection is cast upon the agent, for we base our work on the presumption that when a renewal receipt is returned for cancellation, the agent has exhausted every means at his command to induce the continuance of the policy. When he fails, we take it up, and we succeed in reviving many cases, not because we can offer, or do offer more, but because a personal communication from an officer is often esteemed a compliment. Members like to be noticed officially, and to feel that they are thus coming into close touch with the management. We, of course, do all we can to encourage that feeling, and, in the event of revival, cheerfully turn the renewal commission over to the general agent. It is cheaper to do this than to replace a lapse with a new policy costing many times more.

In bringing this paper to a conclusion, let me say in all seriousness and with absolute sincerity of purpose, that aside from whatever pecuniary interest the companies may have in these matters of lapse and reinstatement, the officers are moved and controlled by this higher thought and motive: To safeguard policyholders against their own negligence, carelessness or misfortune, and to prevent, in so far as it is possible to do so, the loss of the protection to family and dependent ones which was planned for them and to which they are entitled.



## INDUSTRIAL INSURANCE

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Industrial insurance is to-day the most widely diffused form of thrift in this and other English-speaking countries. While at best and at most it is but a means of providing a relatively small sum of money for certain needs in the event of the death of the insured, its educational value as a method of emphasizing the utility of periodical savings and insurance is enormous, affecting as it does the life and well-being of millions of wage-earners and their families. Industrial insurance is to-day a social institution of great importance, not only to the individual, but equally to society and the state, as making slowly but surely for a higher standard of life and security against the uncertainties of the future.

There are now more than fifteen million industrial policies in force in the United States and approximately forty million in the world. The annual industrial premium payments to American companies alone amount to about seventy-five million dollars, while the amount of industrial insurance in force is over two thousand million dollars. All of this enormous business has been developed within less than thirty years, for the first American industrial company was established in 1875, at Newark, N. J.

The term "industrial" at once suggests the practical limitations of this form of insurance to the so-called industrial element, or wage-earning portion of the population of large cities. The term was first used by the "Industrial and General," which, as far as known, established industrial insurance in England in 1849. The business of this company was assumed by the Prudential Assurance Company of London, which in 1854 commenced the transaction of industrial insurance as it is now understood, and this company may rightfully claim the honor of having been the first to develop true workingmen's insurance on the weekly premium payment plan as a substi-

tute for the insecure and often fraudulent insurance methods of burial clubs and friendly societies. Briefly stated the essential principles of industrial insurance are:

*First.*—The premiums are payable weekly.

*Second.*—The premiums are collected from the house of the insured by an agent of the company.

*Third.*—The amounts of insurance are adjusted to the unit premium, instead of the premium being adjusted to the amount; that is, in industrial insurance certain amounts of insurance can be purchased for a premium of five cents per week or multiples thereof, while in ordinary insurance the amount is in round numbers and usually in multiples of one thousand dollars.

*Fourth.*—Every member of the family can be insured for a small premium, while in ordinary insurance, as a rule, only the head of the family is insured for a proportionately large amount.

It is of the utmost importance in all discussions of insurance problems that these fundamental distinctions which differentiate industrial from all other forms of life insurance should be kept in mind to avoid erroneous interpretations of facts and conditions affecting the business and the welfare of the policy-holders. Industrial insurance, in brief, is but a modified form of ordinary level premium life insurance and nearly all industrial companies transact in addition to their industrial business an increasing amount of ordinary insurance, which requires premiums to be paid at least quarterly and direct to the office of the company. Monthly premium payment insurance is not industrial insurance, for as stated, the first and all essential principle is that the premiums must be paid weekly and collected by agents from the houses of the insured. Industrial fire insurance is also a rather misleading term, for even if paid for by weekly premiums, it is rather in the nature of the instalment principle applied to term insurance than industrial insurance as this term is generally understood.

The chief object of industrial insurance is to provide a burial fund for every member of the wage-earner's family. A death under modern conditions of life invariably means a considerable expense for a burial in accordance with what ancient and well-established custom has fixed to be a decent regard for the dead. In addition, as a rule, a considerable expense for medical attendance during the last illness has been incurred, and for these two items an effective

provision is rarely made by other means or methods than by insurance. The undertaker, as a rule, requires to be paid at once, even if the doctor can afford to be more lenient, and, unless there is a definite guarantee, the only alternative is a pauper burial or direct charitable aid from relatives and friends. Under modern conditions, especially of city life, such personal mutual assistance is becoming increasingly difficult, if not impossible, and insurance is becoming more and more the one certain barrier between honorable independence and the pauper's reliance upon public aid. Industrial insurance alone makes it possible for all but the lowest poor or pauper class to provide by periodical weekly payments, often as small as five cents, a sum sufficient to meet the cost of a modest burial in a grave in consecrated ground. The individual or the family is often not in a position to meet an unexpected demand for a sum of money which may range from twenty-five dollars for the burial of a child to one hundred dollars for the burial of an adult. The increasing distance of cemeteries from cities has led to a higher cost of funerals, which must either be met out of the savings accumulated at great sacrifice and for some other purpose, or by incurring a debt, the payment of which must needs prove a serious hindrance to the future progress of the family, especially in the event of the death of the bread-winner. Industrial insurance in consequence has become an almost universal custom among the wage-earning or industrial population of this country.

As time perfects all things, much progress has been made in improving the industrial policy contract since the first policy was issued on November 10, 1875. The policy of to-day conforms in all essentials to the contracts issued to ordinary policy-holders, and the provisions regarding surrender values, dividend privileges, etc., are liberal and sufficient to meet all needs in the event of the inability of the policy-holders to pay the premiums, or to re-instate a policy which may have been lapsed. Every industrial policy has a paid-up insurance value after having been in force three years, and after five years the policy is entitled to additional benefits which increase the amount payable in the event of death. After fifteen years the policyholder is entitled to cash dividends and the policy has a cash surrender value after having been in force for twenty years.

The industrial policy is incontestable after two years, there are

no burdensome or needless restrictions, the policy is not voided in the event of suicide, death from consumption, death from intemperance, etc., but is just as plain and simple a contract as could be devised to fully protect the interests of both the insured and the company. Practically the sole requirements are that the insured at the time of making application for insurance shall tell the truth, especially in his declarations to the medical examiner and that the weekly premiums be paid as they fall due. The public, by long experience, has learned to have absolute faith in the companies, the security of the contract is not questioned, the claims are paid promptly, and while fraud and deception occur, they are extremely rare. The massive structure of modern industrial insurance has been reared upon a foundation of security and equity which appeals to the masses who in ever-increasing numbers avail themselves of this simple but effective method of providing for the certain needs of an uncertain future.

The conduct of the business is one of vast detail, and it has been said with much truth that success depends primarily upon the proper attention to every detail of office and field administration. This principle has been carried to such a degree of relative perfection that it may safely be asserted without fear of contradiction that there are no better managed business concerns in the world than industrial insurance companies.

The work of every life insurance company is broadly divided between the home office and the field. In the former the principle of the division of labor is carried into every department and sub-department to secure the highest possible degree of efficiency and the necessary development of expert skill to meet the constantly increasing demands of a rapidly growing business. In industrial insurance the office management is even more complex on account of the millions of necessary business transactions resulting from the weekly premium payments and the intimate relations that exist between the companies and their policyholders. The number of new applications for insurance received every week is enormous, but each case receives careful medical and other consideration before a policy is issued.

The field operations and management of an industrial company resemble a military organization. Almost the whole country is mapped out into districts which are in charge of qualified super-

intendents, who have secured their positions on merit after years of experience. The superintendent has under him assistants and agents who solicit for new business and collect the weekly premiums from the houses of the insured. The industrial field force is characterized by a high sense of honor and loyalty to its company, and after an agent has been employed for a few years it is rare that he leaves the service, but gradually advances to higher positions. The compensation of agents is on a commission basis, both upon the amount of premiums collected and the amount of new business written. This secures the highest possible degree of efficiency and thoroughness in developing the business in every direction. Agents are required to solicit not only for industrial but also for ordinary insurance and a considerable proportion of their earnings is now derived from commissions paid upon ordinary business.

The educational value of industrial insurance is such that it requires but a comparatively few years to develop individual appreciation of ordinary insurance supplementary to the industrial policy. It must never be overlooked, as pointed out by David A. Wells, that in this country at least, the capitalists of to-day are in a large number of cases but the workingmen of twenty-five years ago, just as the workingmen of to-day will be the capitalists of the future. The normal progress of our workingmen is so rapid that the earlier economic limitations or the ability to provide for but a small amount of insurance are soon improved and the vast ordinary business written by industrial agents has been the logical result.

The agent is under careful supervision and every transaction is subject to check and counter-check. He is held personally responsible for lapses, but every case reported for voluntary discontinuance is investigated by the assistant superintendent and whatever is possible is done to keep the insurance in force. Most of the lapses in industrial insurance occur during the first six weeks of policy duration, when practically nothing has been paid by the insured, who, however, has had the benefit of the insurance during the time and if death occurs during this period the claim would be paid without question. Premiums are allowed to be four weeks in arrears before the policy is cancelled. Lapsed policies can be re-instated without fine or penalty and if the amount in arrears exceeds three months the companies will issue a lien which is deducted from the amount payable in the event of death. Lapses are a loss to the companies,

largely on account of the high initial expense of securing new applications, and a serious hindrance to the development of the business generally. The industrial lapse rate is gradually decreasing. A large amount of so-called terminations, however, represent merely a bookkeeper's statement of insurance issued but not taken and not paid for.

The integrity and efficiency of the industrial agency force are deserving of special mention. Losses resulting from error, defalcation and fraud form but a small item, considering the vast extent of the business and the multiplicity of the transactions. In the experience of one large company the ratio of such losses to premium income was only eighty-two cents in every one thousand dollars. The tendency has been toward a further improvement, chiefly because of the fact that the agency force is becoming more stable and permanently allied to the interests of the company and its policy holders.

We may properly speak of industrial insurance as insurance at retail, and just as retail prices are higher than wholesale prices, so industrial premium charges are relatively higher than ordinary premium charges, partly because of the cost of collecting the premiums from the houses of the insured, partly because of the larger number of office transactions necessary in the conduct of the industrial business, but largely because the class of risks assumed includes various natiivities and occupations subject to a higher death-rate than the average of risks written by exclusively ordinary companies. For illustration: The general death-rate at ages thirty-five to forty-four is 7.5 per one thousand for Americans, 9.6 for natives of Germany, 10.5 for natives of Bohemia, and 15.0 for natives of Ireland; for clergymen the death-rate at ages twenty-five to forty-four is 6.2, while for laborers it is 13.9 and for cigarmakers 14.6. Briefly, the premium charges per \$100 of insurance, at age forty are \$3.46 per annum for an ordinary policy, paid quarterly; and \$5.20 per annum for an industrial policy, paid weekly, with the premiums collected by agents from the houses of the insured. On the retail principle the difference in cost between industrial and ordinary insurance is less than the difference between wholesale and retail prices for certain necessities of life.

The average weekly premium paid by American industrial policy holders is slightly above ten cents. Of the new issue of a large

and representative company during 1903, 36 per cent. were five-cent policies, 41 per cent. ten-cent policies, and 23 per cent. policies with premiums over ten cents. At ages under ten, however, 61 per cent. were five-cent policies and 39 per cent. were ten-cent policies. At ages under ten no higher premium than ten cents is accepted.

The premium charges necessarily vary with age, being scientifically adjusted to the normal mortality rate of the American population. The premiums remain the same for life, except in so far as a reduction results from cash dividends which are payable after a policy has been fifteen years in force. The amount insured for is increased by additional benefits after a policy has been in force for five years. The amount of insurance payable for a weekly premium of ten cents is \$240 at age ten, \$100 at age forty, and \$26 at age seventy. One-fourth of the amount of the policy is payable if death occurs during the first six months of insurance duration and one-half if death occurs during the second six months. The full amount of the policy is payable in the event of death after one year of insurance duration.<sup>1</sup>

Children are insured as members of the family to carry out the original conception of industrial insurance to make the system one of complete family protection. On account of the decreasing rate of mortality at young ages the amount of insurance gradually increases until a maximum sum is reached at age ten. After this age has been attained the amount payable in the event of death remains the same for life, subject to an increase by additional benefits. At age two, for illustration, the maximum amount for which a child can be insured is \$34, at age four, \$48, and at age six, \$78. The premiums remain the same for life.

Although the life insurance of children aims primarily to provide a sum sufficient for the funeral of a child, on the average the sum paid under such policies is less than sufficient to meet the modest average expenses. At ages under ten the average claim payment in the experience of the Prudential was \$30, while the average funeral expenses at this age period, determined by a careful investigation, were \$40. If to the cost of the burial there is added the medical and other expenses of the last illness, a considerable net loss must still fall upon the family in the event of the death of a child, even though provision has been made for the burial expenses

<sup>1</sup> See tables at end of this paper.

by an industrial policy. No higher premium than ten cents is accepted on the life of a child, and the maximum sums for which children can be insured are in strict accordance with the laws of New York for 1892, regulating the insurance of children by industrial companies.

The aggregate amount paid in claims to American industrial policy holders exceeds \$26,000,000 per annum. The estimated number of such claims is not far from 250,000 a year. These payments include a considerable sum paid on account of voluntary financial concessions made at different times, as increasing experience made possible, a course of prudent liberality, with due regard to the interests of existing and future policy holders of the companies. Of the industrial claims paid during 1903 by a large and representative company about 40 per cent. were increased by mortuary dividends or additional benefits as the result of voluntary concessions.

The value of industrial insurance as a means of family protection is perhaps nowhere better illustrated than in the numerous cases of aid rendered to the beneficiaries of policyholders whose lives are lost in exceptional accidents, disasters, epidemics, etc. Of the 957 persons whose lives were lost in the Slocum disaster, 547 or about 57 per cent. were insured with industrial companies. During our war with Spain and the military operations in the Philippines no extra premiums were required from industrial policyholders on account of active service at home or abroad. A study of the distribution and actual location of claim payments in large cities affords a striking illustration of the universality and wide extent of industrial insurance in the great centers of population. Of the deaths occurring in the city of Newark, for illustration, at ages over one during the year 1902 in the experience of a single company 44 per cent. were persons insured under industrial policies. If the facts were known regarding all the companies operating in Newark, it is quite probable that it would be shown that from 60 per cent. to 70 per cent. of the persons dying in that city are insured on the weekly premium payment plan.

The burden of insurance falls lightly upon the average family, for, as brought out by various government investigations, the average proportion of the annual family income of wage-earners expended for insurance is only about 3 per cent. The average actual expenditures for life insurance of wage-earners with incomes of less



than \$1,200 was \$29.55, by the latest data published by the United States Department of Labor. Contrast this with an average annual expenditure of \$24.53 for intoxicating liquors and \$13.80 for tobacco, and the actual expenditure for insurance is relatively insignificant. If a more strict economy is required it is evident that the necessary reductions can be better made and to greater personal advantage from the largely needless and often harmful expenditures for liquor and tobacco than from the amounts expended for life insurance.<sup>2</sup>

Turning now to the distribution of wealth by industrial insurance, it is interesting to note that while nearly \$30,000,000 are annually paid out in industrial claims, the majority of such claims range from \$100 to \$200. In the experience of a large and representative company, of the claims paid 23 per cent. were in amounts of less than \$50; 19 per cent. from \$50 to \$99; 39 per cent. from \$100 to \$199, and 19 per cent. were of \$200 and over. The distribution of so vast a sum as is represented by the annual claim payments of industrial companies must necessarily be a fact of great social and economic importance, emphasizing the value of industrial insurance as a method and means for the accumulation and distribution of wealth, among an element of the population slowly rising in the scale of material well-being to a position of social and economic independence.<sup>3</sup>

The present status of the business is in marked contrast to the results accomplished by other methods of saving, readily available to those who, as wage-earners, have to adjust their affairs to a weekly income and the economical disposition of a small available surplus. Insurance has inherent advantages over every other form of saving which are readily comprehended by anyone of even moderate intelligence. Briefly, to use just one illustration, at age twenty by savings bank methods it requires thirty-seven years at 3 per cent. interest to accumulate a sum, say \$1,000, which is made available at once by life insurance, on the ordinary plan, in the event of the death of the insured. It requires twenty-three years at 3 per cent. to provide by savings bank methods a sum, say \$100, which becomes available, on the industrial plan, after the policy has been

<sup>2</sup> I have discussed this subject at some length in a paper on Family Expenditures for Life Insurance, in *The Spectator* of February 2, 1905.

<sup>3</sup> For an able discussion of this aspect of the insurance problem the reader is referred to a paper by Prof. Richard T. Ely, "The Social Aspects of Insurance," in the February issue of *Views*, 1899, published, Washington, D. C.

in force a full year, while proportionate amounts are available from the date of the policy, as previously explained, namely, one-fourth if death occurs during the first six months, one-half if death occurs during the second six months, and the full amount of the policy is available if death occurs after one year of policy duration.

In America the industrial companies have accomplished truly wonderful results. Organized in 1875, by the Hon. John F. Dryden, the Prudential Insurance Company of America was the first of these useful institutions to transact this form of insurance in the United States. In 1879 the Metropolitan Insurance Company of New York, realizing the future possibilities of industrial insurance, commenced also to issue industrial policies. This company holds to-day the position of being the largest industrial company in the United States. In the same year the John Hancock Mutual Insurance Company of Boston and the Germania of New York, both organized as ordinary companies in 1862 and 1860, respectively, commenced the transaction of industrial business. The Prudential, Metropolitan and John Hancock are to-day the leading industrial companies in the United States and transact 94.5 per cent. of the entire business in force with some fifteen companies. The Germania in 1885 ceased to do an industrial business. A number of companies have been organized during the last twenty years, some of which have been absorbed by other companies, for a variety of reasons, but it is something very considerably to the credit of the managers of these companies that no industrial insurance company in the United States has ever failed. The faith and confidence of the general public in industrial insurance is, no doubt, largely due to this fact of a clean business record and evidence of sound office management. Of the smaller but locally important industrial companies I may mention the Life Insurance Company of Virginia, at Richmond, Va.; the Western and Southern, at Cincinnati, Ohio, and the Colonial, at Jersey City, N. J.

In the United States as a whole there are now some fifteen million industrial policies in force upon the lives of some twelve million persons, representing approximately the insurable members of three million families. Every year the companies are making a substantial increase in their business and the relative annual progress is considerably in excess of the normal increase in the population, wealth, trade and industry. During the decade ending with 1900

industrial insurance, as measured by the number of policies, increased 189 per cent., while the total estimated wealth of the United States increased 45 per cent., the number of savings bank depositors 43 per cent. and the population 22 per cent. These comparisons are significant, for they illustrate the vast social and economic force represented by industrial insurance as a modern provident institution. Millions of people are being educated in habits of systematic saving and such habits once acquired must necessarily react favorably upon the whole of our national life and character.

The best business results have been obtained in the thickly settled states and cities of the East, especially in New Jersey, New York and Pennsylvania. In New Jersey alone it is estimated that approximately 60 per cent. of the whole population of that state is insured under industrial policies. In the city of Newark the proportion is even greater, being estimated at from 70 per cent. to 80 per cent. These results are astonishing even to those who have a thorough knowledge of the facts. Industrial insurance may rightfully claim consideration as being indeed a universal provident institution, widely diffused among the masses. The foundations have been laid with care for an enduring structure destined in time to develop as all other human institutions into one of still greater usefulness to both the individual and the state.

Industrial insurance has also enormously widened the original conception of life insurance. The wonderful progress of ordinary insurance during the past twenty years, increasing the number of such policies from 1,092,529 in 1884 to about 5,200,000 in 1904, is in no small measure the result of the effective education of the masses in provident habits through industrial insurance. Week in and week out lessons of thrift are taught to millions and the fact is brought home that insurance alone provides with certainty for the needs of an uncertain future. These lessons have sunk deep into the life of the people and they have left an enduring imprint upon the individual conscience and developed a higher sense of civic duty. It is no longer thought permissible, even on the part of the poor, to let the burden of burial and the immediate protection of the family fall upon those not duly responsible therefor. Money is saved to-day for insurance which in the past would have been wasted in gambling, in lotteries, in intemperance, and other curses of society. We shall never see the day or a time when speculation or the desire

for rapid gain will cease to be an element in human conduct, for gambling itself is probably as old as the human race since civilization's dawn, but looking back over the past thirty years we see the passing of public lotteries and many other forms of illegitimate speculation, never, let us hope, to return to curse the innocent and the helpless. Insurance is the very opposite of gambling, in that individual risk is eliminated and security substituted therefor, while in all games of chance risk is created and insecurity of property is the result, followed by a long trail of misery and disaster. Having done much to educate the masses in effective provident habits, industrial insurance may rightfully claim a most important place in the social economy of the nation. The educational value of industrial insurance as a method of saving has no better illustration than in the progress made during the last ten years in the development of ordinary insurance. From a policy of \$100 it is but a step in the evolution of the individual under American conditions to a policy of \$500 and later to a policy for \$1,000 and more. After having been made familiar with insurance on the weekly premium payment plan, the payment of quarterly premiums for larger amounts of insurance becomes more attractive. The evolution of the business is simple and logical and of the total business of a large and representative industrial company one-third of the insurance in force is now on the ordinary plan. About two-thirds of this insurance has been written by industrial agents. Thus by slow degrees the mission of industrial insurance has been extended from a mere provision for a burial to the protection of widows and orphans and the needs of old age to the larger needs of the whole population.

What I have said is merely introductory to a broad and sympathetic study of the subject. For a more comprehensive study the student should consult the articles on guilds and friendly societies in "Walford's Insurance Cyclopædia," the "Manual of Friendly Societies," by Hardwick, and the works of Frome Wilkinson and Braubrook on the same subject. The elaborate reports of the various Royal Commissions on friendly societies in England, beginning with 1825, should be consulted. Other important parliamentary publications referring to insurance are the reports on National Provident Insurance, the Aged Poor, and Old Age Pensions, published at different times during the last fifteen years. Baernreither's "English Workingmen's Associations" and Garnier's "English Peasantry" will

be found valuable, particularly if read in connection with Mackay's "English Poor," published in 1889. Mr. Mackay has also published two short monographs on "Workingmen's Insurance and Insurance and Savings," which are among the most successful attempts to illustrate the possibilities of solving social problems through the medium and by the methods of insurance. "The History of the Prudential Assurance Company of London," published in a small volume in 1880, and the subsequent annual reports issued by that company, are exceptionally valuable and instructive as illustrating the different phases and the gradual evolution of the business to a universal method of workingmen's insurance. A brief but instructive account of industrial insurance in America was read at the Convention of Insurance Commissioners at Milwaukee in 1898 by Mr. J. R. Hege-  
man, president of the Metropolitan Insurance Company of New York. The Hon. John F. Dryden, president of the Prudential Insurance Company of America, has published from time to time essays and addresses, some of which have been reprinted in pamphlet form for the information of the public.<sup>4</sup> In 1900 the company published a history of its origin and development, as part of an exhibit of insurance methods and results made in the Social Economy Section of the Paris Exposition. In 1902 Mr. Dryden contributed a paper to the *Insurance Record*, reviewing the history of industrial insurance during the past quarter-century, and the year following, a paper on the "Inception and Early Problems of Industrial Insurance," to the half-century anniversary number of the *Insurance Monitor*. This essay contains a vast amount of historical data relating to the early history of industrial insurance and will be found of exceptional value to students interested in the subject. In 1904 Mr. Dryden participated in the course of insurance lectures delivered before the senior class of Yale University, by an address on the "Social Economy of Industrial Insurance." An interesting sketch of "Industrial Insurance in Australia," by Arthur M. Eedy, was read before the Insurance Institution of Victoria, Melbourne, June 12, 1901. From these and other sources I have drawn largely for the material used in the preparation of this address.

In the words of Mr. Dryden, who introduced industrial insurance into the United States, "The future is full of promise for the ulti-

<sup>4</sup>Copies may be obtained free of charge on application to the Secretary of the Company, Newark, N. J.

mate development of industrial insurance as a universal thrift function in the life of the people, and the record of the companies during the past twenty-eight years is evidence that improvements have been introduced whenever the accumulated experience warranted a further step in advance. Just as it is a recognized law of evolution that 'No social institution commences its existence in a form like that which it eventually assumes,' and that 'In most cases the unlikeness is so great that kinship between the first and last appears incredible,' so industrial insurance in years to come is certain to develop into an agency of still greater usefulness and assume more and more the character of a vast social institution through which most of the uncertainties of life will be effectively provided for."

## APPENDIX.

## INDUSTRIAL LIFE INSURANCE—ADULT TABLE.

*Policy Payable at Death Only.*

Age Next Birthday.	AMOUNT OF INSURANCE FOR WEEKLY PREMIUM OF													
	5 Cts.	10 Cts.	15 Cts.	20 Cts.	25 Cts.	30 Cts.	35 Cts.	40 Cts.	45 Cts.	50 Cts.	55 Cts.	60 Cts.	65 Cts.	70 Cts.
10	\$120	\$240	\$...	\$...	\$...	\$...	\$...	\$...	\$...	\$...	\$...	\$...	\$...	\$...
11	118	236	...	...	...	...	...	...	...	...	...	...	...	...
12	116	232	348	...	...	...	...	...	...	...	...	...	...	...
13	112	224	336	448	...	...	...	...	...	...	...	...	...	...
14	108	216	324	432	...	...	...	...	...	...	...	...	...	...
15	103	206	309	412	515	...	...	...	...	...	...	...	...	...
16	100	200	300	400	500	...	...	...	...	...	...	...	...	...
17	94	188	282	376	470	564	...	...	...	...	...	...	...	...
18	92	184	276	368	460	552	...	...	...	...	...	...	...	...
19	89	178	267	356	445	534	623	...	...	...	...	...	...	...
20	87	174	261	348	435	522	609	...	...	...	...	...	...	...
21	84	168	252	336	420	504	588	672	...	...	...	...	...	...
22	82	164	246	328	410	492	574	656	...	...	...	...	...	...
23	80	160	240	320	400	480	560	640	720	...	...	...	...	...
24	78	156	234	312	390	468	546	624	702	...	...	...	...	...
25	76	152	228	304	380	456	532	608	684	760	...	...	...	...
26	74	148	222	296	370	444	518	592	666	740	814	...	...	...
27	72	144	216	288	360	432	504	576	648	720	792	...	...	...
28	71	142	213	284	355	426	497	568	639	710	781	852	...	...
29	69	138	207	276	345	414	483	552	621	690	759	828	...	...

## INDUSTRIAL LIFE INSURANCE—ADULT TABLE—Continued.

Age Next Birthday.	AMOUNT OF INSURANCE FOR WEEKLY PREMIUM OF													
	5 Cts.	10 Cts.	15 Cts.	20 Cts.	25 Cts.	30 Cts.	35 Cts.	40 Cts.	45 Cts.	50 Cts.	55 Cts.	60 Cts.	65 Cts.	70 Cts.
30	67	134	201	268	335	402	469	536	603	670	737	804	...	...
31	66	132	198	264	330	396	462	528	594	660	726	792	...	...
32	64	128	192	256	320	384	448	512	576	640	704	768	...	...
33	62	124	186	248	310	372	434	496	558	620	682	744	...	...
34	60	120	180	240	300	360	420	480	540	600	660	720	...	...
35	59	118	177	236	295	354	413	472	531	590	649	708	...	...
36	57	114	171	228	285	342	399	456	513	570	627	684	...	...
37	55	110	165	220	275	330	385	440	495	550	605	660	...	...
38	54	108	162	216	270	324	378	432	486	540	594	648	...	...
39	52	104	156	208	260	312	364	416	468	520	572	624	...	...
40	50	100	150	200	250	300	350	400	450	500	550	600	...	...
41	49	98	147	196	245	294	343	392	441	490	539	588	...	...
42	47	94	141	188	235	282	329	376	423	470	517	564	611	...
43	45	90	135	180	225	270	315	360	405	450	495	540	585	...
44	44	88	132	176	220	264	308	352	396	440	484	528	572	...
45	42	84	126	168	210	252	294	336	378	420	462	504	546	588
46	41	82	123	164	205	246	287	328	369	410	451	492	533	574
47	39	78	117	156	195	234	273	312	351	390	429	468	507	546
48	38	76	114	152	190	228	266	304	342	380	418	456	494	532
49	37	74	111	148	185	222	259	296	333	370	407	444	481	518
50	35	70	105	140	175	210	245	280	315	350	385	420	455	490
51	34	68	102	136	170	204	238	272	306	340	374	408	442	...
52	32	64	96	128	160	192	224	256	288	320	352	384	416	...
53	31	62	93	124	155	186	217	248	279	310	341	372	403	...
54	30	60	90	120	150	180	210	240	270	300	330	360	390	...
55	28	56	84	112	140	168	196	224	252	280	308	336	364	...
56	27	54	81	108	135	162	189	216	243	270	297	...	...	...
57	26	52	78	104	130	156	182	208	234	260	286	...	...	...
58	25	50	75	100	125	150	175	200	225	250	275	...	...	...
59	23	46	69	92	115	138	161	184	207	230	253	...	...	...
60	22	44	66	88	110	132	154	176	198	220	242	...	...	...
61	21	42	63	84	105	126	147	168	189	...	...	...	...	...
62	20	40	60	80	100	120	140	160	180	...	...	...	...	...
63	19	38	57	76	95	114	133	152	171	...	...	...	...	...
64	18	36	54	72	90	108	126	144	162	...	...	...	...	...
65	17	34	51	68	85	102	119	One-fourth benefit first six months; one-half benefit second six months; full benefit after one year.						
66	16	32	48	64	80	96	112							
67	16	32	48	64	80	96	112							
68	15	30	45	60	75	90	105							
69	14	28	42	56	70	84	98							
70	13	26	39	52	65	78	91							

ADULT TABLE SHOWING AMOUNT OF PREMIUM REQUIRED FOR INDUSTRIAL  
POLICY OF \$500.

Age Next Birthday.	Weekly Premium.	Age Next Birthday.	Weekly Premium.	Age Next Birthday.	Weekly Premium.
15 Years ..	24 Cents	27 Years ..	35 Cents	39 Years ..	48 Cents
16 " ..	25 "	28 " ..	35 "	40 " ..	50 "
17 " ..	27 "	29 " ..	36 "	41 " ..	51 "
18 " ..	27 "	30 " ..	37 "	42 " ..	53 "
19 " ..	28 "	31 " ..	38 "	43 " ..	56 "
20 " ..	29 "	32 " ..	39 "	44 " ..	57 "
21 " ..	30 "	33 " ..	40 "	45 " ..	60 "
22 " ..	30 "	34 " ..	42 "	46 " ..	61 "
23 " ..	31 "	35 " ..	42 "	47 " ..	64 "
24 " ..	32 "	36 " ..	44 "	48 " ..	66 "
25 " ..	33 "	37 " ..	45 "	49 " ..	68 "
26 " ..	34 "	38 " ..	46 "	50 " ..	71 "

Benefits in first year same as under Regular Adult Table.

INFANTILE TABLE.

*Weekly Premium, Five Cents.*

Benefits Payable if Policy Has Been in Force for	Age Next Birthday When Policy Is Issued.							
	2	3	4	5	6	7	8	9
Less than 3 months .....	\$ 8	\$ 9	\$ 10	\$ 11	\$ 12	\$ 14	\$ 16	\$ 20
More than 3 months but less than 6 months .....	10	11	13	14	16	19	22	28
More than 6 months but less than 9 months .....	12	14	16	18	22	26	35	50
More than 9 months but less than 1 year .....	15	17	20	24	29	35	50	75
One year .....	17	20	24	29	39	55	80	120
Two years .....	20	24	29	43	60	85	120	
Three " .....	24	29	47	65	90	120		
Four " .....	29	51	70	95	120			
Five " .....	55	75	100	120				
Six " .....	80	100	120					
Seven " .....	100	120						
Eight " .....	120							

Twice the above amounts will be paid for a weekly premium of 10 cents; but no higher premium than 10 cents will be taken.



## INDUSTRIAL INSURANCE IN FORCE IN THE UNITED STATES.

*All Companies, 1876-1903*

Year Ending December 31st	Number of Policies.	Amount.
1876 .....	4,816	\$ 443,072
1877 .....	11,226	1,030,655
1878 .....	22,808	2,627,888
1879 .....	60,371	5,651,589
1880 .....	236,674	20,533,469
1881 .....	367,453	33,501,740
1882 .....	590,053	56,564,682
1883 .....	877,334	87,793,650
1884 .....	1,092,529	111,115,252
1885 .....	1,377,150	145,938,241
1886 .....	1,780,372	198,431,170
1887 .....	2,310,003	255,533,472
1888 .....	2,797,521	305,155,182
1889 .....	3,365,461	365,841,518
1890 .....	3,883,529	429,521,128
1891 .....	4,319,817	481,919,116
1892 .....	5,200,777	583,527,016
1893 .....	5,751,514	662,050,129
1894 .....	6,833,439	800,946,170
1895 .....	6,952,757	820,740,641
1896 .....	7,388,119	888,266,586
1897 .....	8,005,384	996,139,424
1898 .....	8,798,480	1,110,073,519
1899 .....	10,050,847	1,293,125,522
1900 .....	11,219,296	1,468,986,366
1901 .....	12,337,022	1,640,857,553
1902 .....	13,448,124	1,806,890,864
1903 .....	14,625,000	1,965,600,000

## ASSESSMENT LIFE INSURANCE

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BY MILES M. DAWSON, F. I. A.,  
Consulting Actuary.

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The subject of assessment life insurance represents the pathological side, if I may so express it, of life insurance. Instead of dwelling upon the physiology of life insurance, upon the normal phases of it, I am invited to discuss those phases which are abnormal and which we hope are now passing away. In order to do so, I find it necessary to make some explanation of how it happened that the disease of assessmentism set in.

It is worth while for the young men of the new generation, who scarcely know assessmentism at all, except as connected with another form of insurance, to be made acquainted with that which was well known to their fathers, and but scarcely known to their grandfathers. When I say it was scarcely known to their grandfathers, I mean that there was a time when the pathological side of life insurance, that is insurance of a pathological nature of this particular type at least, did not exist, and when, whatever other diseases life insurance might have been inflicted with, this particular disease known as assessmentism was not to be found. I shall point out to you why assessmentism in this country became prevalent; because diseases or disorders in life insurance, quite as physical diseases, do not originate independently, but grow out of other pathological symptoms.

Now, the particular situation which gave rise to assessment life insurance and its great growth in this country was the following: In their early history the regular life insurance companies of the United States addressed themselves to furnishing protection. To-day one will often hear representatives of the fraternal societies distinguishing between insurance and protection, and claiming that their organizations are for the express purpose of furnishing protection,

as distinguished from investment; and I think it is a matter of common knowledge that regular companies doing a life insurance business in the United States at this time give a very large part of their attention to investment insurance, and their agents scarcely talk protection, separate from investment, at all. This was not the case in the early days. On the contrary, *the* insurance policy was the whole life policy, a policy with level premiums payable so long as the insured lived, the amount being payable when the insured died, and with no other benefits. These policies had no surrender values originally, although there was every reason why some surrender value might have been allowed; but while they had no surrender values, the rates, being computed upon certain conservative bases, which I shall discuss in the article on fraternal insurance, were what we may call redundant, and the expected mortality was much greater than experienced. In consequence, there was a large margin on these premiums and, as most of the companies were mutual, or, if not mutual, sold participating mutual policies, which promised the insured a share in the surplus, it necessarily followed that there were large dividends, so called, to be paid to the insured.

Now, when men are seeking for protection, there are two questions for them to consider, quality of protection and the price; and these companies, or some of them at least, at the start expected to earn dividends and to pay them annually, equal to fully 50 per cent. of the premiums they were charging. In order to convince the public that they would earn these dividends and believing that it was a perfectly safe and prudent thing to do, they offered to permit a portion of the premium, usually 40 per cent. or 50 per cent., to stand against the policies as a charge, bearing interest; and the expectation held out to the insured was that the charge would be wiped out by dividends. Now consider what this would mean. Take it on a 50 per cent. basis. It meant that when a man was actually paying \$16 for \$1,000 of insurance, the insured was led to believe that his insurance was worth only \$8; and that was all he paid in cash at the time. In point of fact, largely because men conducting companies did not understand what they were doing, the annual dividend expectations, in connection with which these charges against the policies had been made, were disappointed; and the insured found himself with an increasing charge against his policy which amounts to a diminution of the amount insured, and with an increasing rate

to pay, including the interest upon the increasing charge; in other words, with more to pay and less to get. This was unsatisfactory, and the plan became unpopular; but it left one psychological result in the minds of unthinking people, and that was that insurance at that age was worth only \$8. Moreover, it chanced that the death-losses in some companies were only 8, 9 or 10 per thousand for a time. So they declared they were robbed, mistreated.

Men also learned at this time that there was a reserve in life insurance, and that the state required the company to hold a reserve; but they had no idea concerning its function, and they believed it to be unnecessary. They said, these losses are only 8 or 9 out of every thousand; there are some variations from year to year, but it is evident there is no natural increase. So a company can pay its losses out of current premiums, can pay liberal expenses, and have a large surplus left. There is, consequently, no use for a reserve. That was their reasoning. The want of surrender values, giving back to the insured a portion of the reserve in case he was compelled or desired to stop his insurance, was one reason why that psychological result was to be found in the minds of the policyholders. So we have two things, the issue of the fallacious, misleading, annual dividend, loan note policy and the refusal to give surrender values, representing some part of the reserve. These two things, working together, produced in the minds of the people two ideas, one being that there was no reason for holding the reserve, which was only a means of robbing the policyholders, and the other that the insured need pay only about one-half the premiums they had been charged by the old-line companies, which was all that was required to pay the losses.

In the year 1868, after all these conditions which I have described had long been present and were growing worse, there was launched in the state of Pennsylvania, in the little city of Meadville, an assessment plan. That was the beginning practically of assessment life insurance in the United States. It was not really the intention to make this association an insurance society, but something akin to a labor union. It was given the name of the Ancient Order of United Workmen. Incidentally, as one will find to be the case now in a good many thriving unions, it was proposed to give a small protection to the members of the union out of a common fund to be contributed by the payment of \$1 by each member

whenever another died. Subsequently, however, the organization dispensed with the idea of assessing the members until the funds on hand were wiped out by death losses. The labor union part of the proposition was an utter failure from the start; but, owing to the conditions I have just mentioned, the assessment life insurance feature became, after two or three years, extremely popular. Similar institutions multiplied throughout Pennsylvania, and in a short time throughout the entire country, the ground having been well prepared for assessmentism, as has been mentioned.

I want to call attention to the fact that about the time that it became popular, there also arose an extremely favorable condition for it, viz., the panic of 1873. For when the panic came it caused the downfall of a large number of the regular life insurance companies. From the years 1872 to 1880 the amount of insurance in force in the regular companies diminished about 50 per cent. by the failure of companies and on account of hard times. It was necessary for men to find some sort of life insurance from month to month as it were and at level cost, and according to what an extremely happy phrase-maker recently named it, the most "comfortable" method of payment, namely, by monthly payments. About the same time the tontine, or deferred dividend, plan became a feature of life insurance. It provided that all money paid in by the insured should be pooled for ten, fifteen or twenty years. We have practically an abandonment of the pure insurance field by the regular companies at this time, or at least by the most enterprising and progressive of the regular companies. They began to address themselves to those persons who, observing the enormous number of lapses and discontinuances which took place during the panic times, and the hard times that followed, were convinced that they could make a good speculation out of what agents called their "financial strength," *i. e.*, their ability to keep their policies in force; and as the hard times caused people to want cheap insurance, protection policies as distinguished from investment policies, conditions became extremely favorable for the introduction of assessment insurance in the United States.

It may be well to say a little more, by way of introduction, as to what assessmentism was, what it did, and how it came to be; and to state that if such a plan had not been introduced at just this time by the A. O. U. W., it might never have been known in the

United States. The idea was conceived by Father Upchurch, who had learned of the friendly societies of Great Britain and knew that insurance on the assessment plan had been furnished by these societies. Another thing that he would have known, had he been a deeper student, was that the plan had been an utter failure in Great Britain, and that the friendly societies were reforming their methods and abandoning systems such as he introduced, adopting more scientific modes of doing business. Traces of something like assessment life insurance societies are to be found far back in history, in the ancient guilds of Rome and Greece, of Germany and Great Britain, but the sums to be paid were usually small funeral benefits or benefits for the last illness. Now suppose the members were charged ten cents a month to furnish a benefit of \$50 upon the death of one of them, it would be a high price, but it is evident that the members would not be likely to try to ascertain whether they should have paid 12 or 8 cents, for the simple reason that the contributions were small and the benefits were small. We find, however, that when a large portion of the membership found that there was discrimination when the amounts were larger a totally different case presented itself.

Somewhere about the close of the seventeenth century, the year 1694, I think, there was chartered by a special act of the British parliament a society known as the Amicable Corporation, for the purpose of furnishing insurance upon the lives of its members. Its system was as follows: Every member made a contribution, without regard to age, each year. At the end of the year the funds that were on hand were divided equally among the claimants of the persons who had died during the year, and also without regard to age. About a quarter of a century later there was organized a regular life insurance company, which furnished policies for only one year, or five or seven years, and at a high price; so that the Amicable Society for a half century or more had a monopoly of what we now call whole life insurance. Notwithstanding this monopoly, it became necessary for the society to make different provisions concerning the distribution of its funds and also concerning the collection of funds.

In 1762, as a result of lectures in London by a former professor of mathematics in Cambridge, Mr. Dodson, and by a man whom the *Encyclopedia Britannica* calls the ablest non-academic mathema-

tician Great Britain ever produced, Mr. Thomas Simpson, a society called the Equitable Society was founded. It was refused a charter by the British parliament on the ground that the plan it proposed to give its members was a new idea, untried, dangerous and difficult to understand, and that if such a thing was attempted at all the company should be compelled to raise a very large capital, all of which seems amusing at this time, for the system proposed was the level premium plan. This society, the Equitable of London, was the first regular life insurance company in the world to do a whole life, level premium business. It is in existence to-day with more than twenty-five millions of assets and about forty millions of insurance in force.

After the organization of the Equitable, there continued to be assessment plans in Great Britain, and some societies of the "\$1.00 a month" or "\$1.00 every time a member died" sort, grew to great size, and then failed or changed their plans. All this was before the time of Father Upchurch and might have been known by him.

As a result of the introduction of the plan in this country, and the favorable conditions for its spread, there came to be numerous societies on the assessment basis. Please bear in mind that the plan introduced by Father Upchurch was to collect just enough money to pay the claim by levying a certain sum on all members without regard to age. There sprang up numerous small associations, some of which grew to large proportions. The Ancient Order of United Workmen now has more than 400,000 members and over \$700,000,000 of insurance.

In addition to the above-named societies, there are others known as business assessment associations, where the management is vested in persons who have the power of perpetuating their control by means of proxies from the members. These societies claimed to be superior to fraternal societies, because of the business men's services that they were able to secure and utilize and their superior attention to the details in the conduct of the business. Some of these became large institutions, and ten or fifteen years after their first appearance a very large portion of the life insurance of the country was in "business assessment" societies.

They did not, however, proceed very far on the equal levy, or flat assessment, system. They felt it was not only unfair to put a man of sixty and a youth of twenty in the same class and to charge

the same rate of premium for both, but that it also resulted in the young man aged twenty or thirty not going in or not remaining in, on account of the excessive cost, while the old man persisted. In the State of Pennsylvania at this time, for example, there were myriads of these societies. No other part of the country was so pestered with them as Pennsylvania. Many were called "graveyard" associations because they allowed speculation on the lives of old men in feeble health by persons who had no interest in their lives whatever. These concerns were short lived, of course.

They did not, however, proceed very far on the equal levy, or flat assessment plan of life insurance, which was so unfair and dangerous on account of no regard being paid to the ages of the members upon entering. Most of the business societies were organized on the basis of charging a different levy or assessment according to the age of the member at his introduction into the society. That is to say, for instance, charging a member introduced at the age of 20, forty cents, one introduced at the age of 40 sixty cents, one introduced at the age of 50 one dollar, or whatever the case may be. Frequently these rates were based on a misapprehension of the mortality table. At the age of 20 men die at an average say of 7 per 1,000; at the age of 40, 10 per 1,000; at the age of 50, 15 per 1,000, and at the age of 60, 30 per 1,000. Therefore, said they, the monthly rate for the man at 20 will be one-twelfth of \$7, or 60 cents; at 40 it will be 90 cents and at 50 it will be \$1.25 and at 60 \$2.50. This they called equitable distribution of cost and thought it met all requirements, forgetting that it was good for but one year. Almost all of these so-called business assessment life insurance societies were organized on that plan.

Later in the development of the business, there were two modifications of the plan, one consisting of the creation of a reserve by adding a percentage to the assessment, which reserve was to be called upon to help out the excess cost over what the net assessment would provide. A second method of making reserves was invented by one of the most ingenious minds that has been engaged in life insurance. According to this method it was proposed to utilize the gains from lapses, that is to say, over-payments by members who did not keep up their policies, to reduce the premiums for all members. It was designed that under this system both the premiums and reserves of the persistent members would be lower than



under the usual plan which does not count the gains from lapses. Investigations since that time have shown that if these gains are discounted and applied to reduce the premiums the reserves will not be reduced; while only in case the premiums are not reduced will the reserve be reduced. Only one company made extended use of this plan. That company was able later to reorganize as a regular life company, and is now conducting a prosperous business as such.

For the most part, the business assessment societies have passed out of existence. In any event, they occupy relatively a much less important place than hitherto. The proportion of the total life insurance in the country, held in the business assessment associations, has steadily decreased, and for many years the amount in force has diminished. A considerable number of smaller societies are still held together by special influences, and in a few cases great economy and skill in management, resulting in low expenses and low mortality, has enabled the companies to thrive even to this day, notwithstanding the defects of their plans. Many of those which have gone out of business have failed, but a respectable number were reorganized as regular companies, dealing with their assessment business in various ways, which I shall not here attempt to discuss.

## FRATERNAL LIFE INSURANCE

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BY MILES M. DAWSON, F. I. A.

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In discussing assessment life insurance, it was shown that assessmentism is a pathological phase of life insurance, by which is meant that it was a mistaken system of life insurance, the course of which was predetermined by the character of the system itself. That course means dissolution, the only escape being a reform of method before the necessary result of the system has become realized. It will be recalled that all of these companies operating on what was known as the business assessment basis, with a few conspicuous exceptions, have either failed or been reorganized upon the level premium plan into old-line companies. The methods of these reorganizations would be interesting, and might properly form the subject of another lecture, but there is no occasion to discuss them to-day. It will be recalled that the few assessment societies which have so far continued without reorganization are either in a moribund condition, or the effects of error in plan have been temporarily offset by great economy of management, great care in the selection of risks and the accumulation of reserves, albeit insufficient reserves.

We have a much more cheerful task before us to-day, for we shall be considering the course of the same pathological phase of life insurance, assessmentism, in a class of institutions which have on the whole been exemplary in the matter of economy of management, and also in the selection of risks, and which in addition have very great vitality on account of the strong fraternal sentiment that binds their members together and causes them to cling to the institution in solving its difficulties, instead of deserting it as soon as the danger signal appears. I refer to the fraternal life insurance societies of the country.

Their vitality and innate strength, and their ability to cope with and overcome errors of plan, which would destroy companies of another character, are illustrated by the fact that the Ancient Order of United Workmen, the oldest fraternal society, and the institution

which first introduced assessmentism into the United States, is still flourishing with a membership of more than 400,000, and more than \$700,000,000 of insurance in force upon their lives. This society has undergone two reorganizations and has survived the shocks of these readjustments, and bids fair to outlive permanently the effects of the fundamental error in plan which attended its original organization. On the other hand, that large brood of assessment societies, managed on a business basis, which sprang up as a result of the early successes of this Order, and which at one time had a very large proportion of the total insurance of the country upon their books, has diminished in numbers, by failure and reorganization, to a mere handful and no longer cuts any figure in life insurance returns.

This fact alone would illustrate sufficiently the difference between the two plans of organization, but there may be added to it the following: The last ten years, and especially the last five years, have been years of readjustment of rates in the fraternal societies of the country, many of the most important of them having changed from incorrect and unsafe plans to more scientific methods. Had there not been anything to offset the natural effects of the incorrect plans, and had those societies possessed no greater vitality than the assessment companies, the result would have been the passing out of existence of many of the fraternities. On the contrary, there have been but two or three important fraternities to decay and go out of existence, and in each case it was due to failure to act promptly rather than to the deficiencies of plan, which might easily have been remedied. Moreover, while ten years ago, these societies had in round numbers one-half of the total insurance in force, they have through the period of readjustment more than held their own absolutely, showing a good increase in membership each year, and the only effect of the readjustment has been that they have lost in relative position, having fallen perhaps from half the total to about one-third the total. Their popularity still remains undiminished and, the readjustment period passed, there appears to be no reason why they should not regain their relative position also.

Let us consider somewhat closely the nature of the fundamental error in the assessment plans. The first of these plans to be considered is that of equal rates without regard to age, which we may call the flat assessment plan. Under this, members admitted at the age of twenty, thirty, forty, fifty or sixty were all assessed the same

amount toward the payment of death losses, although, according to one of the standard tables, at the age of twenty, the risk of death calls for a payment of \$7.80 per \$1,000 or about sixty-five cents per month; at age thirty, for \$8.43 or about seventy cents per month; at age forty, for \$9.79 or for about eighty-two cents per month; at age fifty for \$13.78 or \$1.15 per month, and at age sixty, for \$26.69 or \$2.22 per month. It will be observed, therefore, that the older members would be assessed much less than their insurance actually cost and the younger members much more. That such a plan could have started at all was due, therefore, to two circumstances outside of the historical conditions to which I adverted in the article on assessment insurance, viz.: That there was extreme economy of management which more than offset any additional cost to the younger members for the time and, second, that the fresh medical selection kept the total cost far below that indicated by the tables for several years, and as the societies grew very rapidly, in some cases for many years.

Evidently, however, the plan has within it the seeds of dissolution, for the members admitted grew older constantly, and this threw more and more burden upon two classes of members, viz.: Those who are still at the younger ages, and more especially those who are newly admitted at the younger ages. After a time, it could not but result in the refusal of young persons to come in, and also the withdrawal of many of the younger members. Where there was great economy of management, however, so that the excess charged for mortality upon the younger members did not equal the difference between the expenses in the society and the high expenses in other companies, and where also, the mortality was kept at a low point by a large growth and fresh medical selection, the development of this difficulty was delayed for a long time, and many were deceived thereby.

Notwithstanding this, after a time the idea became prevalent among the patrons of fraternal societies, as well as elsewhere, that there ought to be graded rates for the various ages. There was great distrust, at the time, of actuaries by the members of fraternal societies, and there was also great distrust of fraternal societies on the part of actuaries. The members believed actuaries to be false scientists, employed to bolster up the hated old-line business, and actuaries, knowing that the assessment plan was fallacious and in the

end ruinous, were wholly out of sympathy with the fraternal societies which employed such plans. Consequently, when the idea first became clear in the minds of the patrons of the societies, that there ought to be graded rates, they naturally turned to the mortality tables to help themselves, and they found there rates of mortality according to age. They believed a reserve to be an unnecessary thing and a "fifth wheel for a wagon," as they called it, and this view was somewhat confirmed by a book published by the late Mervin Taber, in which he divided a premium into what he called its "elements," viz.: Mortality, reserve and expenses. This division was meretricious and misleading in fact, being good for one year only, the division of the level premium into such elements changing with each year and after some years the mortality charge actually exceeding the whole net premium and encroached upon the accumulations of a reserve. But this was not made clear in the book.

Therefore, the next plan was what has been known as "graded assessment," that is assessments graded according to ages at entry. Precisely as under the other plan, only enough was intended to be called to pay current losses, but now the assessments were made, for instance, sixty-five cents at age twenty; seventy cents at age thirty; eighty-two cents at age forty; \$1.12 at age fifty; \$2.22 at age sixty, or other varying rates, supposed to represent the mortality at the various ages. Once fixed, these rates were not intended to be changed; that is to say, a member who entered at twenty would pay at the same rate until he was forty, fifty, sixty, seventy, eighty, ninety or whatever age you please.

Supposing now that this rate was properly determined at the age of entry, it must be manifest that when a man was twenty years older, he will be subject to an average mortality rate at an age twenty years higher, and not to the rate at his original age. Let us assume, therefore, members admitted at twenty, thirty, forty, fifty and sixty, for instance. The member at thirty pays but a small advance, about 5 per cent., on the member at twenty; the member at forty shows an advance of about 25 per cent. on the member at twenty; the member at fifty shows an advance of over 70 per cent. on the member at twenty; the member at sixty an advance of over 200 per cent. on the member at twenty. Now let us look at these same members twenty years later, and for the moment assume, that no new members are admitted, so that it is a mere question of dis-

tribution of cost between these members. The member admitted at twenty is now forty. In order to pay for his insurance at twelve assessments per year, the mortality being as per this table, he should be paying eighty-two cents instead of sixty-five cents, or more than 25 per cent. additional. The member admitted at age thirty is now fifty and should be paying \$1.12 or 60 per cent. more than before. The member admitted at forty should now be paying \$2.22, or 170 per cent. more than before. The member admitted at age fifty, now seventy, should be paying \$5.17 or 360 per cent. more than before, while the member at age sixty, now eighty, should be paying \$12.04, or 442 per cent. more than before.

It, however, is not of absolutely the first importance, that each of these should receive his insurance for twelve assessments of the same size as before. The important question to determine is whether the ratios of the payments which they are making at the outset to one another is a correct ratio now twenty years later, so that each of them is paying his fair proportion of the total cost. Twenty years before the member admitted at twenty and the member at forty were paying in the proportion of sixty-five and eighty-two and that still remains their rate. In other words, the man at forty was paying about 20 per cent. more than the man aged twenty; each of them is now twenty years older and the cost to the member admitted at age twenty who is now forty, is eighty-two cents per month or 25 per cent. more; for the member admitted at age forty who is now sixty, \$2.22 per month, which is not 25 per cent. more, but is 170 per cent. more in round numbers. It, therefore, follows that this plan becomes correspondingly advantageous to the members as they become older and necessarily disadvantageous to the younger of them. Thus, for instance, the member admitted at age sixty is paying \$2.22 instead of \$12.04, or about five and one-half times as much. That is, he is getting five and one-half times the benefit, while the member at age forty, who is admitted at age twenty is only getting 25 per cent. additional benefit.

This would be bad enough for a society which admitted no new members and would be extremely unfair to the younger members. It would, however, soon work its own cure, either by the disease running its course and destroying the institution, or by a reformation of plan. The admission of new members, especially in large numbers, tends to divide the extra cost of the old members' insur-

ance over their own payments among a larger number, but it is yet more unfair, because in effect it taxes not merely upon the member at forty who was admitted at twenty an unfair share of the mortality, out of all proportion to the cost of his own protection, but it taxes also the newly admitted members at age twenty, the same proportion which the other member pays at forty. After some years this must necessarily be discontinued. The length of time that it can continue depends upon the growth of membership, economy of management, excellence of fresh medical selection and other things, but in the end it must always spell ruin, unless relinquished.

The fact that members who are admitted at twenty, for instance, do not continue to experience the death-rate proper to the age of twenty forever, has not failed to be noticed by the patrons of fraternities, and in consequence, some years ago, a fraternal society was organized which offered protection, the rate increasing as the member grows older, but it was realized that this sort of insurance would not be attractive if the plan were carried to its conclusion and, therefore, it was provided that there should be no increase after the member attained the age of sixty. The society created no reserve to take care of the excess cost of protection to members beyond sixty over their payments and, therefore, this plan when carried on long enough to get a considerable membership beyond the age of sixty, also threw upon the younger members and upon the new entrants, a large part of the burden of the cost of the protection furnished to the older members. This plan in its original form attracted a good many of the more discerning and questioning patrons of fraternal insurance, and it has been adopted by a few societies other than the societies which originally introduced it, but it has not become widely popular.

When the time finally came for reorganization, some of the societies which by reason of comparative poor medical selection, slow growth or lack of economy, became victims of the defects of the system earliest, passed out of existence. Their fate served as a warning to others, and there began to be an active movement for adequate rates and sound plans. This movement has gone forward, until at the present time several of the most important fraternities have made changes in their plans looking toward financial strength and permanence. These changes for the most part consist in the adoption either of level rates correctly computed on a scientific basis,

or of level term or increasing term rates during the working period of life, merged into level rates beginning at old age. The societies have employed, in connection with devising these plans, various actuaries, and have shown a commendable disposition to study their conditions thoroughly, and to adopt new rates which will, when the shock to the organization has passed, put it upon a permanent and solid basis. They have approached the problem with courage and intelligence, and the work which they have accomplished within a few years has received the approval of all who are thoroughly acquainted with the nature of the problems before them, and has enlisted sympathy and co-operation on all sides. Moreover, they have, notwithstanding the somewhat radical changes which have sometimes been necessary, held a large proportion of their old membership and in every case, as soon as the shock of the readjustment had been recovered from, they have again begun to increase their membership.

This favorable result is due to several things, among which may be mentioned the following: The vast amount of education of members which has gone forward in recent years; the loyalty and fidelity of both the officers and the members, and their willingness to make sacrifices for what they believe to be a great and worthy cause; the fact that these changes are brought about by the action of representative bodies, a large majority of the members of which must perforce be convinced, before anything is done; the fact that the members of these representative bodies, having served the societies in various capacities for many years, have a thorough practical knowledge of the conditions and consequently have been able in most cases to suggest variations from the proposed program, which while not impairing the sound basis of the new rates, make them more acceptable to the membership; and, lastly, the fact that economy of management goes a long way toward offsetting the strain upon the membership due both to the check in the new growth which occurs for a time and the consequent loss of the large advantage of fresh medical selection, and also to the introduction of reserve charges which are found necessary under practically all the plans proposed.

It would be beside the purpose to give instruction here in what may be called physiological life insurance, or the normal phase of it; and I shall not undertake to do it. But I must lay down a few elementary principles in order that the nature of the changes which these societies have been compelled to make in their readjustments



may be understood. The methods of computing premiums, after one is furnished a mortality table fairly expressing the mortality to be expected, and also has determined upon a rate of interest at which funds not immediately required will accumulate, are fully presented in numerous insurance works and require no discussion for the present. Suffice it to say at this point, that one only need to know how an actuary knows that a rate is correctly computed. This I will undertake to explain in as few words as possible.

Assume 100,000 members admitted at the age of twenty and that they die precisely as per a certain mortality table. Let the rates be paid level for life or increasing for life, or increasing for a time and then level, theoretically it matters not which. In any event, if the rates have been correctly computed and the company has precisely the mortality called for by the table, and earns precisely the assumed rate of interest upon any funds that are not immediately required, the following will be the case, viz:

Starting the first year with the premiums for that year, improving them at the assumed rate of interest to the end of the year, paying out of this fund the losses according to the table for the year; adding the premiums for the new year by survivors, improving at the same rate of interest up to the end of that year; paying the losses for that year; and repeating this process until the highest age in the table has been attained and passed; there should then remain precisely sufficient money to pay the claims of the last members to survive, and nothing left. This is the test of just and adequate rates, no matter whether the company be a fraternal society or an old-line company.

A variation has been offered from this of the following nature, viz: That the discontinuances of members be taken into account, and no part of the reserves contributed by them be returned upon surrender. If this is admitted, it must necessarily be with great caution, because these discontinuances vary, it has been found, with ages, with years of insurance or membership and with calendar year, that is, according to whether you take the experience of one calendar year or another. Moreover, it is not believed that any society can permanently collect large reserve funds from its members, without accounting to them if misfortune overtakes them, by some sort of surrender value.

Two remarkable statements as to the part which an actuary

should play in these readjustments have recently been made—one by a distinguished college professor and one by a man prominent in fraternal circles. The former ridicules the idea that the subject can safely be dealt with by a representative body of laymen, and practically affirms that the actuary's word should be accepted without question, and that the formulation of sound plans should be left completely to him. The other has stated, that, on the other hand, the actuary should play the part of an attorney only, and should not make his own personal views felt at all in the matter, except in the form of special confidential advice to the leading officers as I understand his statements. From personal experience, I am able to say that both views seem to me to be wrong. The greatest possible advantages accrue to the society from a free interchange of views between the actuary, serving as a consultant of the society, and the members of the representative body; such modifications being made as seem to the latter to be desirable, taking into account the peculiar conditions, subject always of course to explanations by the actuary as to the normal and necessary results of the modifications. Even in the most technical matters, it is found that the representatives, when once interested, easily get a firm grasp of the principles; their suggestions are frequently of the highest value, and no actuary working alone in the seclusion of his office can possibly meet all the practical objections to a plan which he formulates, that will be raised in a representative body of this character. The best results, therefore, are likely to be obtained by the co-operation of the scientists and the members' own representatives, and it is my firm conviction also that the highest form of government is by an instructed common people.

I cannot close without paying my tribute of earnest admiration to the leaders of the fraternal societies and particularly to the members of these societies. They have everywhere risen nobly to the duties before them and even when they have declined, in any considerable body to acquiesce in the proposed changes it will be found upon examination that there are peculiar circumstances which excuse them and explain their action. The willingness to have sound plans introduced has been remarkable; objections have most frequently been to special features which bore more heavily upon members in one section than on members in another.

## STATE SUPERVISION OF INSURANCE COMPANIES

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BY S. H. WOLFE,  
Consulting Actuary.

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On December 8, 1904, the President of the United States in his annual message to Congress, said:

"The business of insurance vitally affects the great mass of the people of the United States, and is national and not local in its application. It involves a multitude of transactions among the people of the different states and between American companies and foreign governments. I urge that Congress carefully consider whether the power of the Bureau of Corporations cannot constitutionally be extended to cover interstate transactions in insurance."

Were his remarks predicated upon actual facts? It is not my intention to dwell upon the magnitude of the insurance interests in this country, nor to speak of the enormous sums which are collected annually by this class of corporations in the form of premiums from its citizens. I do desire, however, to present a concrete illustration of the magnitude of the interests entrusted to the care of the officers of insurance corporations. If one examines the last annual statements rendered by three of the largest life insurance companies in this country it appears that the sum of their assets is about \$1,250,000,000. The manner in which insurance companies are constituted is no different from that of other corporations, and in consequence the handling and investing of this enormous sum is in the hands of a few master minds, while ostensibly the finance or executive committees consist of a much larger number. I venture to make the assertion that the disposition of this sum just mentioned is in the hands of not more than a dozen people, and when we stop to consider that the accumulations of a life insurance company are a sacred trust fund, we are approaching what must have been one of the motives which lies at the very base of state supervision. I have cited here the accumulations of but three companies, and when we stop to count the number of fire, life, casualty and miscellaneous

companies which are domiciled in this country we can appreciate with added force the point which I have just raised.

Corporations exist to-day because they are part of the development of commercial history, and must be regarded as one of the necessary accompaniments of the complex, modern industrial conditions. Glancing back over the history of banking we find that the first banking operations were conducted by the individual. Owning to his wealth, or perhaps his reputation for integrity, he took his position in his own particular locality as a desirable depository for the funds for which the citizens of that locality had no immediate use. He was known personally to all his clients. There was no necessity for the state stepping in and investigating the condition of his affairs. Each and every depositor had it within his power to know his banker was living, whether his habits were such as to inspire confidence, and whether the wisdom which he was supposed to possess would probably result in the safe investment of the funds entrusted to his care. However, as soon as banking functions became more complex, and it became necessary for the banker to extend his territory into places too far removed to permit of a personal and intimate knowledge of the individual, the banking corporation sprang into existence. State banks and National banks usurped the functions of the private banker, and the state found it necessary, for the protection of its citizens, to establish some form of visitation whereby it would be enabled to ascertain the standing of the various corporations and their methods of doing business, and in this way be in a position to give necessary information to those of its citizens legitimately entitled to it.

The history of insurance is somewhat similar, if one may be permitted to regard as insurance premiums, the fixed periodical payments which were made by the members of the Anglo-Saxon guilds toward a common fund, from which losses were paid. As a matter of fact, this is the purest form of mutual insurance, and we find the members of these guilds uniting in the manner just described for the purpose of indemnifying themselves against the losses arising from fire, flood, robbery or other calamities; but the business of insurance was far too important and too technical to be administered by the individual. This fact was recognized as long ago as 1660, for we are told that at this date a plan for establishing a fire insurance company was set on foot by "several persons of quality

and eminent citizens of London." The project met with the king's approval, and being referred by him for attention to the Common Council met with opposition from that body, which was not inclined to clothe individuals with such powers, for they rejected the proposal "on the ground that they thought it unreasonable for private persons to manage such an undertaking, or that any one but the city should reap the profits of the enterprise."

The field in which individuals can operate is naturally limited; but this is not true of corporations, for they are enabled to attract to themselves large amounts of capital and lose, therefore, their local flavor, while assuming more complex and extensive functions. This, however, is not peculiar to insurance companies, and I believe it not unlikely that within the next few years we shall witness a form of supervision exerted over all semi-public corporations similar to the one to which insurance companies are now subjected. Within the past few months the citizens of this country have been interested by the suggestion emanating from the Department of Commerce and Labor, to the effect that all corporations should be required to obtain federal charters, and thus subject themselves to supervision from that source. It may not be uninteresting at this moment to refer to a paragraph contained in the report of the secretary of this department, published shortly after the president's message. In speaking of the insurance companies he says: "The rapid development of the insurance business, its extent, the enormous amount of money and diversity of interests involved, and the present business methods suggest that, under existing conditions, insurance is commerce, and may be subjected to federal regulation through affirmative action by Congress. The whole question is receiving the most careful consideration upon both legal and economic grounds." I shall refer more fully in the latter part of this paper to the question of federal supervision; but I desire at this time to pass to the more practical phase of the question, which may be found in an answer to the question: "How is the state supervising insurance companies, and does such supervision redound to the benefit of the citizen?" In the first place, not everybody is of the same mind as to the necessity for the exercise of this branch of the public government. The opposition may be broadly divided into two classes: First, those who desire no supervision because it imposes additional labors or expenses upon them, or else their methods are such

that they prefer to walk in those dark lanes and by-ways where the great, broad beam from the searchlight of publicity cannot reach them; and second, those who believe that supervision of insurance companies is a form of paternalism which is inconsistent with the principles underlying the government intended for this country by our forefathers. We need waste but little on the first class, but the second class is entitled to a respectful hearing. I shall not attempt, however, at this time to debate the question of paternalism. Suffice it to say that as long as the citizens of any sovereign state, through their legally elected representatives, decide that the public welfare requires its banks to be examined, its physicians to pass a satisfactory examination before they are entitled to practice, its dentists to undergo a similar ordeal before they are permitted to operate upon our molars, and (as in the case of our sister state, New York), require its barbers to give convincing evidence that they are competent to cut the citizen's hair and shave his beard, I see no reason for taking umbrage at an extension of this paternalistic doctrine to insurance companies. In fact, there are additional and weighty reasons, for while we must of necessity be present while submitting to the ministrations of the barber, our life insurance policies are more or less shadowy and vague unrealities during our existence, and usually assume their prime importance when we are no longer here to explain what our intentions were and what representations were made to and by us. As the tendency of the times is in the direction of an increased supervision, rather than the abolition of it, I think it will be fair to all concerned if we accept it as it stands to-day in this country and discuss it from that viewpoint.

Each of the states and territories comprising this great United States has an insurance department, and in addition thereto the District of Columbia likewise exercises to the fullest extent its control over insurance corporations. The supervising officer is known by various titles. In the larger states he has a separate department of his own, and is known as the commissioner or superintendent of insurance. Other states (some of which are large and wealthy enough and have sufficient insurance interests to entitle them to a separate bureau) have attached their insurance department to the auditor of state's office, where it is administered oftentimes in a most perfunctory manner by the same machinery that is furnished by the state for looking after building and loan associations, savings banks,

county treasurers, etc. In some others the secretary of state looks after the details, while in others the state treasurer is the responsible officer. In nearly every case where the insurance department is a separate branch of the state government its head is appointed by the governor. In fact, there are only two states, I believe—Delaware and Wisconsin—whose insurance commissioners are elected by direct vote of the people. Each state has an insurance code of its own, and the difficulties and annoyances which insurance companies experience in trying to comply with fifty different sets of laws may well be imagined. There is a crying need for uniformity in this matter, and for a radical change in the laws of all the states. I know of no one state which possesses a code of insurance laws which may even be termed reasonably satisfactory. The insurance business has attained such proportions, and contributes so liberally through taxation to the income of the state, that it is entitled to more equitable and reasonable treatment than it is receiving at present.

The duties of an insurance commissioner may be said to be threefold. First, to see that the laws of his state are obeyed; second, to see that the citizens of his state are justly treated by the insurance corporations; and third, to see that the insurance corporations themselves are protected while operating under his permit. His duty in administering the law requires that he shall cause every company authorized to do business in his state to file an annual report setting forth in detail its receipts, its disbursements, its assets, its liabilities, and such other information as he shall deem necessary. He must see that it has complied with all of the laws of the state from which it received its charter, and that it has on deposit with the proper officer there approved securities worth at least \$100,000. He must see to it that a resident of his state is appointed its attorney, upon whom legal process may be served in order that the citizens of his state may not be compelled to go beyond its borders to serve the necessary papers in the event of litigation. He is required to publish this for the information of his fellow citizens. He is required to see that no agent solicits insurance without a license; that the company makes a correct return of the taxes which are imposed upon it by the laws of his state, and finally to exercise that relic of barbarism known as the retaliatory law, whereby he is compelled to say in practice to the corporations of other states, "because your laws impose unjust and onerous conditions upon my corpora-

tions I will act in the same unjust and arbitrary manner towards you." It is a matter of regret that this legacy from the Dark Ages is to be found upon the statute books of so many of our enlightened states.

Now, as to his duty to the policyholder of his state. He must be prepared to investigate complaints, to ascertain whether the policyholder is receiving the treatment to which he is entitled and to see that no unjust discriminations are worked against any particular individual. He must likewise value the outstanding policy obligations of insurance companies in order that he may determine whether, as in the case of a fire insurance company, it is holding a sufficient amount to pay its losses as they mature, or whether its entire collections have been dissipated in the form of expenses and salaries; and whether, as in the case of a life insurance company, it has sufficient funds on hand to provide for the rigid carrying out in the future of its contractual relations with its policyholders. He must likewise protect the interests of the citizens of his state by frequent examinations of his local corporations, and in cases where he deems it necessary by the examination of corporations situated outside of his state. This is an important part of his duties, for without it he is powerless to know whether the annual statement filed by the company, which is naturally the basis of his opinion of its condition, is a true and correct exhibit of its operations. There is much need for reform, however, in the manner in which this branch of the commissioner's duties is administered. Unfortunately, the laws of the various states require the corporation examined to pay the expense of the commissioner's investigation. This may justly be compared to that refinement of torture whereby the youthful miscreant was compelled to cut the switch with which he was to be thrashed. The expenses of all examinations should be borne by the state conducting them.

And now comes his third duty, which is by no means the least important, viz., the protection which he should afford to the insurance companies. As he is gifted with great power it becomes him to administer it with a gentle hand. He should carefully refrain from using his office as a collection agency for claims. And, above all, he should be in a position to thoroughly eradicate that evil known as "wild-cat" insurance, by which is meant the operations of those predatory corporations which steal into a state, write insurance of a



worthless character, and are away again before the deluded policyholder can realize that he has been made the victim of a swindling game. The insurance companies which submit themselves to the operations of the insurance laws of a state are entitled to insist upon the extermination of the "wild-catters." It is their privilege and their right.

There have been good commissioners and bad commissioners, honest men and dishonest men, capable men and those of absolute incompetence, in the same way that there have been desirable and undesirable men in every walk of life. Considering their opportunities, however, and realizing that they are men who are taken from other walks of life, temporarily clothed with great authority, and in nearly every case conscious of their liability to removal from office just about the time that they are beginning to learn their duties, the insurance commissioners of this country have creditably administered the task assigned to them, and their record compares most favorably with that of any other branch of the government. Crude though it may be in spots, the system of supervision exercised over insurance companies to-day is far more effective than is the supervision exercised over national banks.

While not intending to present a history of state supervision in this country, it may, nevertheless, be of interest to call attention to a few dates which mark the establishment of departments charged with the specific purpose of looking after these great interests. Corporations being creations of the state are at all times subject to the police powers of the body which brought them into existence. Insurance corporations are no exception to the rule, and the earliest form of supervision simply required the same compliance with the laws that was exacted from corporations transacting other lines of business. One of the earliest specific statutes, however, requiring reports from moneyed corporations was a requirement adopted by the Massachusetts general court as early as 1807, while the next step is found in the revised statutes of 1828 of the State of New York, which required moneyed corporations to make annual reports to the comptroller of the state and provided that corporations authorized to issue insurance policies were moneyed corporations within the meaning of the law. In New York the first general insurance act was passed in 1849 and practically included the provisions of the prior act. The insurance department in that state, however,

was not established until ten years later and the legislature then passed an act which merely transferred the supervision from the state comptroller to the superintendent of insurance. No additional measures were incorporated therein to insure the safety of the policyholders or to establish rigorous tests whereby the solvency of the companies could be determined.

It is interesting to the student of insurance to examine the first annual report issued by William Barnes, the first superintendent of the New York department. He states in the introduction: "The establishment of a distinct department charged with the execution of the laws relating to insurance, was imperatively demanded by the magnitude and importance of the interests involved, and the vast increase of the business of insurance within the past few years." When we stop to consider that the total capital and accumulations of the life insurance companies of the state of New York at that time amounted to \$12,090,815.24, we can see how our standards for judging the magnitude of the business have changed.

It was not until 1866 that the English Life Table No. 3, for males, with interest calculated thereon at 5 per centum per annum, was established as a standard of solvency in New York, only to be changed two years later by the substitution of the American experience table of mortality as a standard. This table had just made its appearance and was constructed from the experience of the Mutual Life Insurance Company of New York by Sheppard Homans. Four years before the establishment of the New York department, Massachusetts had established hers and had prescribed as a basis of solvency the actuaries' table of mortality which was based upon the experience of seventeen English life offices. Gradually the other states fell into line until all were equipped with more or less perfect machinery for the supervision of the companies operating within their borders. If, however, we dropped this phase of the subject at this time and left the impression that state supervision had confined itself to mere methods of accountancy and had not accomplished some more lasting and substantial good for the policyholders, we would be doing the institution an injustice. In 1861 the Massachusetts non-forfeiture law was approved. Crude as it was it furnished a basis for requiring insurance companies generally to recognize the equities which the retiring policyholders had in the general funds of the companies, and about four years later

the companies began to provide in their contracts on the ordinary life form a surrender value in the form of paid-up insurance after the policy had been in force three years. The surrender charge was deducted from the reserve standing to the credit of the policy and the balance invested as a single premium. There was great diversity of opinion and practice as to what this surrender charge should be. This non-forfeiture law in Massachusetts was replaced by one approved in 1880, and a still further modification was made in 1887. The present non-forfeiture law in New York took effect in 1880. California and Michigan adopted similar legislation in 1869, while Maine's first non-forfeiture law was passed in 1877, and Missouri's two years later.

In view of the interest which has lately been manifested in the direction of substituting or supplementing state supervision by national supervision, I have determined to devote some time to a discussion of this feature of the question. We are, to use the words of that eminent jurist, Judge Grosscup, "in the midst of a sweep of events, that unless arrested and turned to a different account will transform this country from a nation whose property is within the proprietorship of the people at large, to a nation whose industrial property, so far as active proprietorship goes, will be largely in the hands of a few skilled or fortunate, so-called, captains of industry and their lieutenants." What Judge Grosscup says about corporations in general is particularly and peculiarly applicable to insurance companies. There never was a time in the history of this class of corporations when there was such grave danger of the power of great wealth becoming centralized as there is at the present time, and, unfortunately, a great wave of speculation has coincidentally swept over the country. It is to the credit of insurance managers generally that they have resisted what might be a natural tendency to use the trust funds in their keeping as a means of personal aggrandizement, and for the flotation of speculative enterprises; and I do not hesitate to say that the restraining influence which has kept them from these dangerous paths has been the publicity which state supervision is enabled to demand.

Within recent years one of the large insurance corporations in this country determined to take the profits which had been accumulated by the contributions of its policyholders and distribute them in the shape of "dividends" among its stockholders. Three or

four strong-minded, fearless, insurance commissioners served notice upon the officers of that corporation that the carrying out of the plan would meet with their disapproval and its attendant consequences. The managers wisely determined to abandon the scheme. Subsequently the same corporation attempted to practically merge its identity with that of a trust company, similarly officered, with the result that a number of insurance commissioners again served notice upon it, that to persist in its determination would mean the revocation of its licenses in their respective states. That the judgment of the commissioners was well formed is borne out by the fact that the courts of the state in which the company is domiciled issued an injunction forbidding the merger. Is it any wonder that the officers of this corporation are among the warmest and strongest advocates of the abolition of the entire structure of state supervision?

From whom does the demand come for the establishment of a national bureau at Washington, which will do away with the various state departments? Strange as it may seem, the policyholder, who primarily is the one benefited most by supervision, has indicated no desire to have the present methods changed. The entire demand for the new order of things comes from the officers of the insurance companies, who seek in this way to escape the burdens and compliance with the dicta of state supervision. Why, they ask, if the banking business is supervised by the federal authorities, should not the insurance business be treated in a similar manner? The answer is simple. The banking business is not supervised by the federal government, except when the bank attempts to exercise a function of the central government, viz., "to emit bills of credit." In other words, there may be a bank incorporated under the laws of any of the states, which transacts an enormous business, which practically has agents in every state of the Union, and whose operations partake of an interstate nature as thoroughly as any can. The government does not attempt in any way to exercise supervision over it; but let a bank, no matter how small its capital, no matter how restricted its operations, once issue bank notes, and it becomes at once an object of visitation by the central government, which insists upon a regulation of the affairs of such an institution in order that the early scandals of repudiated bank notes may not be repeated. The national govern-

ment does not say to a banking institution: "Because you are large and operate in every state of the Union we will supervise you;" but it applies the sole test: "Are you exercising a function of the central government? If so, we will see that you so conduct your business along proper lines that the credit of the United States will stand behind every dollar note that is issued to the world with the names of your president and cashier upon it."

Again the question is asked, "If the government supervises railroads, why should it not supervise insurance companies?" And a consideration of this question brings us face to face with the fact that the Interstate Commerce Commission was appointed, not at the request of the railroads, but because the individual shippers found themselves unable to secure equitable treatment at their hands. The reason that this government is able to supervise railroads, even in the inefficient manner in which it does it at present, is owing to the permission which is granted to it specifically by the Constitution of the United States to regulate commerce between the various states. To bring insurance companies, therefore, into the same category with railroads we ought to be prepared to show that they, too, are transacting an interstate commerce business. We may each of us have a distinct idea as to what constitutes commerce, and to what extent an insurance policy may be designated as an instrument of commerce. Fortunately we are enabled to turn to the proceeding of the highest court in the land, and find out how the Supreme Court of the United States has placed itself upon record in this matter. The two cases which I am about to cite are important historically, as they mark definite expressions of opinion, and they must be reversed *in toto* in order that the suggestion of the President of the United States and of the secretary of the Department of Commerce and Labor be carried into effective operation. Before doing so, however, I desire to absolve myself from any intention to enter into the realms of constitutional law, state sovereignty and the various other intricate legal problems which are the logical and natural results of the discussion of this question from the legal side. It is my intention merely to state these two cases and the findings of the court.

In 1868 the Supreme Court of the United States handed down a decision in the now celebrated case of *Paul vs. Virginia*. About two years before, Samuel Paul, a resident of the State of Virginia,

was appointed the agent for several insurance companies incorporated in the State of New York. He applied to the proper officer of Virginia for a license to act as agent for these corporations, offering to comply with all the requirements of the statute applicable to foreign insurance companies, with the exception of one, which required a deposit of bonds with the treasurer of the state. A license was refused him because he failed to comply with this provision. Notwithstanding such refusal he continued to act as agent, and for this violation of the statute was indicted and convicted in the Circuit Court of the city of Petersburg, and sentenced to pay a fine of fifty dollars. An appeal was taken to the Supreme Court of the state, where the judgment was sustained, and the case was taken to the Supreme Court of the United States, the ground of the writ of error being that the judgment affirmed below was against two clauses of the Constitution of the United States. First, the one which provided that "the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states;" and second, that clause giving to Congress the power "to regulate commerce with foreign nations and among the several states." The learned court wrote a lengthy opinion, and, speaking on the second point just mentioned, says: "The defect of the argument lies in the character of their business. Issuing a policy of insurance is not a transaction of commerce. The policies are simple contracts of indemnity against loss by fire, entered into between the corporations and the assured, for a consideration paid by the latter. These contracts are not articles of commerce in any proper meaning of the word. They are not subjects of trade and barter, offered in the market as something of an existence and value independent of the parties to them. Such contracts are not interstate transactions, though the parties may be domiciled in different states."

That decision was handed down many years ago, but it seems to have been held to be pretty good law, for the Supreme Court has not reversed itself.

The second case which I am about to cite is, if anything, more convincing, to my mind, for it deals with a policy of marine insurance, which it will be admitted is more closely and intimately associated with commercial transactions than a fire insurance policy. In September, 1888, the plaintiff in *Hooper vs. California* was arrested and charged before a police court of the city of San Fran-

cisco with having early that year committed the misdemeanor of procuring insurance on account of foreign companies that had not complied with the laws of California. He was found guilty and sentenced to pay a fine of five dollars, and in default thereof to be imprisoned for one day in the city prison. The case was fought through the state courts, and finally carried to the Supreme Court of the United States, which handed down a decision in 1895. The opinion of the court says, among other things: "The business of insurance is not commerce. The contract of insurance is not an instrumentality of commerce. The making of such a contract is a mere incident of commercial intercourse, and in this respect there is no difference between insurance against fire and insurance against the 'perils of the sea.' The State of California has the power to exclude foreign insurance companies altogether from her territory, whether they were formed for the purpose of doing a fire or a marine business. She has the power, if she allows any such companies to enter her confines, to determine the conditions on which the entry shall be made. And as a necessary consequence of her possession of these powers she has the right to enforce any conditions imposed by her laws as preliminary to the transaction of business within her confines by a foreign corporation."

I have given these two quotations, as they seem to have a direct bearing upon the right of the national government to attempt to regulate the conditions upon which insurance companies may transact their business in the various states. I seriously question the possibility of interference with (a) the right to tax or the amount of taxation which may be levied by a state upon a foreign insurance company; and (b) the right to interfere with the right of examination which is now exercised by the various state governments. If the establishment of a central bureau cannot do away with these, underwriters generally have been frank enough to say: "We do not want national supervision, for it would simply mean the imposition of another supervising officer without mitigation of the present evils." Fire insurance managers, who, by the very nature of their business, are required to exchange information and consult relative to the making of rates, fear that their operations may bring them within the purview of the Sherman anti-trust act.

Before concluding I should like to point out a rather interesting fact, and that is that the suggestion for national supervision is

not a very new one. In 1868 a bill was introduced in Congress providing for the establishment of a national bureau, and at the same time a bill made its appearance providing for the incorporation of "The Chamber of Life Insurance of the United States." This corporation was to be practically composed of a number of companies which desired to band themselves together, and were to have the authority to individually transact business anywhere within the United States without paying license fees or taxes, or being subject to inspection or to the provision requiring the filing of annual statements or to the making of deposits. Congress alone was to receive a report showing the condition of the companies. The superintendent of insurance of the State of New York, in his report dated April 1, 1868, refers in these scathing terms to this proposition:

"An abortive attempt in the pretended interests of policyholders has been recently made at Washington by a small minority of the life insurance companies of the Union to wrest from the several states their legitimate and constitutional functions of supervision and control over the subject of life insurance, and under the mantle of the federal government and the machinery of an association of companies to arrogate to themselves all supervisory powers and jurisdiction, with the right to issue certificates of authority for every state in the Union except that in which a company is incorporated. Undoubtedly all companies, by their boards of directors, actuaries, auditors, stockholders and policyholders, should annually at least examine, audit and regulate their affairs in the best possible manner; and if all or a portion of the companies choose to associate themselves together for this purpose the public will not object to any such vouching by all for each individual company, but any system of self-supervision by the corporations themselves or by their own officers, actuaries or appointees, however artfully disguised, will not be accepted by the public for an independent governmental supervision made in the interests of the state and the whole commonwealth. This crude and ill-digested scheme very properly received its quietus in the Judiciary Committee of the House of Representatives by a unanimous vote and was not even dignified by a report for the consideration of Congress."

But if we are to have national regulation of insurance, let us have the real article. Let us have a supervision which is not perfunctory. Let us have a supervision which will be enabled to pre-



scribe just what investments may be made by insurance companies. The Prussian government has a form which not only seeks to secure publicity and the establishment of a standard of solvency, but actually enters into the business methods of the corporation. It requires that certain deposits be made, that the funds of the company be invested only in certain prescribed securities, all of which are devoid of speculative character, such as stocks of every description, that every change of by-laws be submitted and approved by the chancellor before it goes into effect; that Prussian civilians be not compelled to pay an extra premium for the extra hazard involved in the war risk, and then, in addition to these and other similar restrictions, it goes to the very root of the most serious evil with which we have to contend in this country, namely, the excessive cost which company managers are paying for their business, and forbids any corporation to pay more than 2 per cent. of the face of the policy for its procurement.

It may not be amiss to state that at the present session of Congress there was introduced a bill providing for the national regulation of insurance, by a representative from Pennsylvania. From what has gone before I think it is clear that insurance is a complex subject, and one requiring specialists for its administration. With these points in view, a critical examination of the bill just introduced will, I think, indicate to an impartial observer two things at least. First, that the supervision of *all* the companies in the United States is a piece of work of such magnitude that it is hardly practicable to have it undertaken by one department; and second, that if it be possible to find the man who is competent as a fire underwriter who is sufficiently well-versed in the legal and actuarial doctrines to be able to supervise life insurance companies, and who is able to intelligently grasp the situation as it affects casualty plate-glass, and employers liability companies, we will find the man who is worth many times the extravagant salary of \$3,000, which Mr. Morrell proposes to pay the head of this bureau. Is this not a bid for a repetition of the very evil which is so dominant in state supervision, viz., filling the office as a reward for political services? I must admit that I cannot look without apprehension upon placing so much responsibility in the hands of one man. I believe that there is less liability of doing an injustice to the insurance interests by distributing the responsibility than in concentrating it as proposed.

The insurance world has seen men in office as state insurance commissioners who administered their duties in the most dishonest and disgraceful way. To imagine men of similar type in charge of a national bureau is sufficient to cause the gravest apprehension. I believe that we can accomplish more good by developing state supervision rather than curtailing it, and I know of no more appropriate conclusion to a paper of this kind than the enunciation of a few doctrines which in my opinion would lead to that end.

The proper method of securing the ideal condition is to use our influence in taking state supervision out of politics. Let us follow the example of several of the New England States, which having found capable officials to fill the positions, have kept them in office through administration after administration. Politics ought not to be a factor. There is no department of the state government which should be so independent, and so free from entangling alliances as the insurance department. At the first sign of trouble the depositor in a bank may secure himself against loss by withdrawing his deposit, and transferring his banking operations to another institution. Policyholders in insurance companies, particularly life insurance companies, are not so situated. Their contracts mature many years after they are entered into. They cannot be surrendered at will without loss being sustained, and in the event of the failure of an insurance company the policyholders may find themselves, through age or deficient physical condition, in such a position as to be deprived entirely of the benefits of protection.

Let us surround this business, therefore, with every safeguard that we can, be it state or national, in order that we may preserve forever and ever the benefits of this beneficent institution.

## **II. Fire Insurance**



## HISTORICAL STUDY OF FIRE INSURANCE IN THE UNITED STATES

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In a history of fire insurance in this country one must of necessity consider whence the business came, the stage of its development, when it came and, to some degree, its originating cause. Only enough can be said on these points to identify its origin, establish the line of descent, and set forth how and when it came to be brought to this country. Furthermore, the consideration of so large a subject in a brief paper, can only be of a skeleton character with a fair emphasis upon some of the formative factors.

One of the results of the great fire of London in 1666 was the devising of plans for the protection of individuals against loss by fire. The great fire of London was relatively the greatest in the history of the world, over three-fourths of the buildings in the city having been destroyed, and the estimated loss aggregating about ten million pounds sterling. So great indeed was this loss that, ten years later, the buildings had not all been replaced. Quite a number of plans were tried, and before the close of the century a company, which finally became the Hand-in-Hand, was established. In 1706 Charles Povey opened an office in London for insuring property owners in that city against loss from fire, but his plan merely involved his promise to pay. Shortly after this first attempt, he started another enterprise for the purpose of insuring against loss from the destruction by fire of personal property throughout Great Britain and Ireland, and in 1710 organized a proprietary or stock company which took over these two institutions, and which was named the Sun Fire Office, though commonly referred to at present as the Sun, of London, which will exist as one of the leading fire insurance corporations of the world, and is as familiarly known in this country as at home. In 1720, two more companies were

chartered, which still exist, and both of which maintain branches in the United States, namely, the Royal Exchange and the London Assurance.

Fire insurance may be said to be due to an idea born of necessity and only existing at the beginning of the eighteenth century in a crude and experimental form. The period being the colonizing one, the Englishmen who came as settlers to this country brought the idea with them, so that the development of the thought of making the fire loss less burdensome to the individual is as much, if not more, American than British. Originating in England, two separate lines of fire insurance development have been carried forward, each influenced by local features of indemnification, but with remarkable fidelity to type, and from these differing lines of development has grown up an international business factor of large importance.

Having noted its origin and traced the line of descent, let us now follow the fortunes of the younger branch of the fire insurance family as developed in this country. In doing this it may be noted that fire insurance and the more employed marine insurance became early factors in the commercial development of the colonies. They grew with the growth of the business of the country, and have been part of the bone and sinew of material prosperity of the American people.

The first forms of insurance in this country were marine. In 1682, as we are informed from records, vessels engaged in trade between England and the colonies, were insured against the perils of the sea, and as early as 1721, an advertisement appeared in the *American Weekly Mercury* announcing that John Copson, of High street, Philadelphia, would open an office for insurance on "vessels, goods and merchandise." For quite a long period the insurance business of the colonies continued to be marine; part of it being written by agents of English companies, and the remainder being issued in American ports. In 1762, at the London Coffee House, at the southwest corner of High and Front streets, Philadelphia, John Kidd and William Bradford, announced that they would underwrite risks in general, and before the close of the century a considerable number of such offices had been established. In Philadelphia the first steps toward the protection of property took the form of organizations for the extinguishment of fires and regulations concerning

the nature and location of buildings. In 1730, the city authorized the purchase of three more engines, four hundred buckets, twenty ladders and twenty-five hooks, and in 1752 with approximately 2,076 dwelling houses (not including churches, public buildings, warehouses and workshops), the city possessed seven fire extinguishing companies.

In this same year, the *Pennsylvania Gazette*, under date of February 18th, contained an advertisement of proposed articles of insurance of houses from fire in or near the city. The plan had the approval of the lieutenant-governor of the province and of Benjamin Franklin, and on April 13th, directors were elected and the Philadelphia Contributionship was thus formally organized, being the first fire insurance company to be organized in the United States. Its plans were an adaptation of those of the Hand-in-Hand of London; in fact, the company became quite generally known as the Hand-in-Hand, and its first house mark was four hands clasping wrists. One curious incident should be noted. The directors of the Contributionship in 1781, decided that houses having trees planted before them, should not be insured, because the trees made it difficult to fight fires. This policy created considerable friction and opposition, out of which grew, in 1784, the Mutual Assurance Company. The house mark of this new company was a green tree, cast in lead, fastened to a shield-shaped board, affixed to the front of the insured property. Both of these companies are still in existence and continue to transact business along the same general lines as at first, namely, what is known as perpetual insurance. This, in brief, is a deposit of a certain percentage of the face value of the policy which is paid once for all, the interest on it proving sufficient to provide for the losses sustained. In 1794, the Baltimore Equitable Society operating upon the same general plan, was established.

In December, 1792, the General Assembly of Pennsylvania was petitioned for permission to incorporate the Insurance Company of North America, and on April 14, 1794, the incorporation of the company was authorized, and almost immediately thereafter, that of the Insurance Company of the State of Pennsylvania. Both of these companies were organized to transact marine insurance, but during the first year of the North America's existence, the directors concluded to add the business of fire insurance, and the proposals for insurance were completed in the latter part of the year. The pro-

posals were for insuring full value. Two general hazards were provided for: the first class including common insurances and providing for brick or stone houses, stores and furniture or merchandise therein, while the second included those houses which were not wholly brick and stone and such extra hazardous goods as pitch, tar, turpentine, etc. For the first class the rate was thirty cents per hundred on an eight-thousand-dollar policy and forty-five cents on a policy not exceeding sixteen thousand dollars; while in the second class, the rates were seventy-five cents per hundred dollars.

The earliest company in New York, of which we have any record, was the Knickerbocker Fire, organized April 3d, 1787, under a deed of settlement. The original title, however, was that of the Mutual Insurance Company, the name Knickerbocker not being assumed until May 12, 1846. The company was by its charter permitted to transact fire, marine and life insurance, and in less than a month, the New York Insurance Company was organized with practically the same privileges. Three years later, March 21, 1801, the Columbian Insurance Company of New York was organized, and on April 4, 1806, followed the incorporation of the Eagle Fire with a capital stock of \$500,000, and now the oldest New York stock fire insurance company. Most of the companies in New York organized during the latter part of the eighteenth century and the first forty years of the nineteenth century, were what are known as special charter companies and, following the development of the day, most of them were organized for the purpose of writing marine insurance. Another of the early New York companies which is still in business, is the Albany Insurance Company, which was organized in March, 1811. The charters of most of the companies of this day, were what are known as limited charters. Some of them were for twenty years, some for thirty, but the principle of limitation was quite generally and distinctly recognized.

Commerce early became an important part of New England development, and most of the towns were seaports or situated at the head of navigation on the more important rivers. As soon as the New Englander began to trade, he recognized the hazards which attended the transportation of merchandise. No sooner was this recognized than marine insurance in its earlier forms made its appearance. The marine companies in New England, as in other parts of the country, issued fire insurance policies as soon as there was



a call for them. Fire insurance, however, did not seem as important as marine insurance and the stronger of the early insurance companies devoted more of their attention to waterborne merchandise. In 1799, there was organized at Providence, the Providence-Washington, which still continues to do a prosperous business.

The early underwriting in Connecticut, as in the other colonies, was generally of a personal or partnership character. It should be remembered that the country in the last decade of the eighteenth century, was poor. Its capital had been very largely exhausted by the Revolutionary struggle, and enterprises which had been prosperous had been completely disorganized, and during the whole period of the confederacy the uncertainty of the future paralyzed to a large extent the commercial life of the colonies. The industrial life of Connecticut was simple; coarse articles for necessary use were manufactured, and the surplus products of agriculture and merchandise of home manufacture were exported to the West Indies. In 1792 the Hartford Bank and the Union Bank of New London were organized, and with the business development which followed the organization of these institutions insurance partnerships came. Thus, in 1794, Sanford and Wadsworth opened an office in Hartford for insuring furniture, merchandise, etc., against fire, and the next year associated with themselves Jeremiah Wadsworth, John Caldwell, Elias Shipman and John Morgan in a co-partnership under the title of the Hartford and New Haven Insurance Company for the purpose of insuring vessels, stock, merchandise, etc. In 1797 Elias Shipman established a separate office in New Haven which was chartered as the New Haven Insurance Company, but which retired in 1833. The men interested in these insurance ventures, for they were ventures, were the merchants of the leading cities, Hartford taking and holding a commanding position. Jeremiah Wadsworth, one of the leading spirits in the mercantile and financial life of Hartford, was well known outside of that state, since, for example, he was one of the founders of the Bank of North America of Philadelphia in 1781, holding one hundred and four shares of the original stock. In 1785, he was elected president of the Bank of New York, and was also interested in the organization of the Hartford Bank. This note of Colonel Wadsworth is given so that the character of the men who engaged in early Connecticut underwriting may be understood and the reason seen why Hartford

has always held such a prominent position in the underwriting world. It is because men of brains, means and faith established the business.

As these partnership policies involved a great deal of labor, the organization of a corporation seemed a very natural step, and in 1803 a charter was procured for the Hartford Insurance Company. The business of this company was marine and the capital was \$80,000 in shares of \$40 each. Twenty-five per cent. was paid in notes and 75 per cent. in notes secured by mortgages. But in 1825 the company was merged in the Protection Insurance Company. About this time also, a group of companies was organized for the purpose of writing marine insurance, but most of them were obliged to go out of business on account of the depression in marine commerce consequent upon the War of 1812. Some idea of the paralysis of commerce of the United States caused by the embargo and non-intercourse acts, is to be gathered from the fact that exports fell from \$110,084,207 in 1807 to \$22,430,960 the following year. Duties on imports at New London shrunk from \$201,838 in 1807 to \$22,343 in 1810. Most of the marine companies were killed as a result of the depression. The Norwich was saved by changing its business to fire insurance in 1818 and as noted above, the Hartford was transformed into the Protection.

The oldest fire insurance company in Connecticut is the Mutual Assurance of the City of Norwich, which was organized in May, 1795, under a deed of settlement. The company has never attempted to do a large business, being largely a neighborhood affair. In 1810, the Hartford Fire was organized and is thus the oldest stock fire insurance company in the state. The original capital was \$150,000, with privilege of enlargement to \$250,000. The subscribers were obliged to pay in 5 per cent. in thirty days and 5 per cent. more in sixty days, the remaining 90 per cent. to be secured by notes and mortgages. There was not a great deal of money to be had in those days, consequently notes and mortgages had to form the principal basis of corporate organization. The organizers of this company had everything to learn, because they knew nothing about fire insurance, for there was not much to be known. It was chance, pure and simple. There were no data by which the cost and the charge could be brought into anything like proportionate relations. Some idea of rates may be gathered from the charges on a few of the

early policies. Number one was a builder's risk of \$4,000 for three months at twelve and a half cents. Number five was \$10,000 on a gin distillery at  $1\frac{1}{4}$  per cent. Numbers twenty-one and twenty-two were \$20,000, being respectively on a stock of drygoods and hardware, the former at seventy-five cents and the latter at twenty-five cents. The year after the company organized, it began to plant agencies, but without any system. For instance, there was one agency at Canandaigua, N. Y.; another at Middlebury, Vt., and by 1820, an agency had been established at Cleveland, Ohio. As showing the relative importance of cities and towns, it should be noted that it was not until 1821 that an agency was established in New York City. The compensation was a sort of graded commission, determined by the importance of the town. Three of the agents were given 10 per cent. on all premiums received exceeding \$1,000 for any one year, while in the early years some gratuities were voted by the directors to those who had rendered special services. The president received no salary until 1823, when he was paid \$200 per annum, voted semi-annually after the work had been done.

The first secretary of the Hartford Fire, Walter Mitchell, did not live in Hartford, but in Wethersfield, and appears to have suited his own convenience as to office hours. His convenience was not exactly the convenience of the citizens of Hartford and so in 1819 the *Ætna* was organized, with a capital of \$150,000 with the privilege of increasing it. The first policy of the *Ætna* was issued August 7, 1819, and about a month later, the first reinsurance known in this country was entered into by the *Ætna* when it assumed all of the outstanding risks of the Middletown Fire. It rather liked the experience apparently, because three years later, it was willing to reinsure the New Haven Fire, which reinsurance, however, was secured by the Hartford. In the beginning of the fire insurance business, the matters which are now sent to trained experts, were considered by the board. The vital portions of each policy with the survey were read to the board of directors before delivery. The officers and directors did quite a little traveling or exploring, and on these trips, made from time to time, agents were appointed, which was the principal work of a fire underwriter when traveling in those days. In 1822, the directors of the *Ætna* voted the secretary two dollars per day and his expenses when he went out to establish agencies; while he was drawing his per diem allowance,

however, his salary as secretary was suspended, since they did not believe in paying for work which was not performed. The secretary, however, did not do all of the pioneering work, much of it being done by the directors. Twenty years after the company was organized, Joseph Morgan, one of the original directors, made an extensive western trip, which occupied ten weeks and his expense account averaged \$3.29 a day. His grandson would probably think such an allowance rather short commons.

The pluck of these early underwriters is well illustrated by the action of the *Ætna* directors in the matter of settling the losses incurred by the great fire of 1835 in New York. The *Ætna's* losses amounted to \$115,000. The directors were notified that the fire would probably exhaust the entire resources of the company, and one of the directors asked President Brace what he intended to do. "Do?" he replied; "go to New York and pay the losses if it takes every dollar there," pointing to the securities of the company, "and my fortune besides." The directors pledged him their support and the losses were paid. The premium receipts increased so rapidly that in twelve months the *Ætna* had as much cash as before the fire. It was the same spirit which led the shareholders to contribute \$2,500,000 to maintain the technical solvency of the company after the Chicago and Boston fires. The success of institutions with such men in charge is assured when they take hold.

Until the close of the century there had been about ten mutual and four stock companies, organized in the country, while by 1820, this number had increased to seventeen stock companies in New York, six in Pennsylvania, two in Connecticut and one each in Rhode Island, New Jersey and Massachusetts. Of these, twelve are still doing business. It should be noted here that very early in the history of the business, an attempt to exclude foreign insurance companies was made. Statutes were enacted in Pennsylvania and New York in 1810 and 1814 respectively, forbidding foreign companies to transact business in this country. These prohibitory statutes continued in force until after the great fire in New York in 1835, which rendered necessary the enlargement of the sources from which fire insurance indemnity might be secured. Most of the early companies transacted both fire and marine insurance. As the business of the country developed, the people began slowly to recognize the importance and necessity of fire insurance, though

for many years the growth of public recognition was slow. The burden of the fire loss in the smaller communities was quite largely borne by voluntary contribution. A man's house or barn was burned and the owner's neighbors made up a purse which should enable him to rebuild, or help him at least, to get a new start; and in some portions of the country this practice obtained until past the middle of the nineteenth century. In some of the municipalities, ordinances were enacted which compelled owners of property to have and keep in repair, leathern buckets. Some idea of the slow development of the business can be gathered from the fact that while the Insurance Company of North America decided on its form of fire insurance policy in November, 1794, it had, one year later, only issued seventy-three policies. In 1796, this company decided to accept risks in any part of the United States if the premiums were adequate to the risk in the opinion of the officers, and in that year it had risks on its books in Western Pennsylvania, New Jersey, New York, Massachusetts, Delaware, Maryland, Virginia, North and South Carolina. In 1798, it declined an application for an agency in Charleston, S. C., but in 1807 the company decided to authorize agents. There was quite a rapid growth of companies during the first thirty years of the nineteenth century, which companies, as a rule, were purely local, there being only one here and there which transacted any business to speak of, outside of the cities where it was located. There was but little security behind the policies issued beyond the current receipts and the good faith of the men who managed the companies.

The great New York fire of 1835 swept out of existence most of the New York companies. This fire closes what may be termed the first period of American fire insurance, a period devoted almost wholly to pioneering. While many of the corporate ventures were failures, still the lessons of the period pointed the way to the more perfect development which was to follow. Mistakes were discovered and steps taken to correct them. A question asked of Edwin G. Ripley, for example, led to the classification of risks. One of the patrons of the company, noticing the frequency of fires in certain lines of business, asked Mr. Ripley if the *Ætna* made money on paper mills. The question was a poser, but he straightway began to get ready to answer the next man, and so started the classification of risks several years in advance of his competitors. At this

time, also, fire insurance in the large cities had become a recognized factor in commercial life. Outside of the cities, however, it was looked upon with more or less distrust, or perhaps it might be said was considered unnecessary.

Turning our attention to the second period we find new factors entering the business. The public demanded more certainty in the matter of the contracts and greater provision for the stability of the companies, so in 1837 the first step was made in the direction of reservation. The State of Massachusetts provided that companies should maintain a fund to insure their contracts being carried out, and this was the beginning of what is known as the unearned premium fund. The start toward this is an important factor in development as it marks the beginning of two things: First, making sure that the policyholders shall be protected in the contracts they have entered into with the companies; and second, the entrance into the fire insurance field, of the state, which, from this modest beginning as will be seen later, has gradually developed the extensive system now known as state supervision.

The development of this idea of reservation is interesting, especially in view of the fact that it is recognized to-day as one of the corner-stones of successful fire underwriting. In 1853, the New York legislature enacted a law providing for what is known as the unearned premium reserve. By the terms of this law, a reinsurance fund ranging from about 30 to 60 per cent. of the unexpired premiums was required to be maintained. The sum thus set aside, which became a liability, was assumed to be sufficient to reinsure in a solvent company the unexpired risks of a company which desires from any reason to retire from business. The legislature tinkered with the law in 1862, providing for the reservation of the full amount of the unexpired premiums in all cases where dividends exceeding 10 per cent. were paid. The companies considered this a burden and sixty companies petitioned the legislature to change the law requiring 100 per cent. reservation to one fixing the percentage at 50 per cent. of the premiums. The New York insurance department opposed this request, and justified its opposition by figuring out from the loss record that a 50 per cent. reinsurance fund was inadequate. This subject of reservation and dividends was also discussed by the Massachusetts supervising officials and in the ninth annual

report of the Massachusetts insurance department, it was proposed to establish what was known as a "state guarantee" by which the companies should pay an annual tax. There were to be three classes under this scheme: the first, where less than two million dollars of risks were insured, the dwelling-house tax was to be five cents on every hundred dollars insured and ten cents per hundred on other buildings and personal property; the second class, where the amount at risk was between two and six million dollars, was to pay a tax of two cents and four cents per hundred at risk; and the third class, where the amount at risk was over six million dollars, the tax was to be one-half cent and one cent on each hundred dollars insured. This shows the experimentation indulged in by state departments for the purpose of getting the business upon a sound loss-paying basis. In these early days of state supervision, companies desiring a license were examined by special commissions. The requirements were slight, and not infrequently the companies of this period were obliged to go out of business within a few years after organization. When the conditions which existed in the fifties and sixties are compared with those of the present day, it will be seen that the evolution of the business has been steadily toward certainty so far as the policyholders are concerned, though no means has been devised to prevent the capital invested being dissipated through bad management and excessive losses.

Another feature of the second period was the development of the mutual idea. The New York fire of 1835 destroyed a great majority of the New York companies. This created a feeling of distrust in the public mind and the organization of mutual companies became the order of the day, and by 1853 sixty-two companies reported to the comptroller of New York, having an aggregate capital of over eleven million dollars. The mutual plan commended itself to the people of that day as correct theoretically and economical in operation. In practice, however, these companies proved unsatisfactory for the reasons that they were based upon incorrect principles and because of a lack of staying power. One of the weaknesses of the mutual plan in practice is admirably stated in the report of James M. Cook, comptroller of New York in 1854, in which he says: "The formation of a mutual insurance company upon a proper and sound basis never contemplated the taking of risks in other states than our own."

The mutual companies had attempted to operate upon the same basis as the stock companies did. The mortality among the mutuals, however, was excessive. A general insurance law was enacted in 1849, and during the succeeding four years over fifty-four mutual companies were organized. By 1860, however, only seven of these survived, and Superintendent of Insurance Barnes, of New York, estimated that the losses to the people through the failure of these forty-seven companies averaged at least \$50,000 per company. These companies were organized with premium notes as capital in amounts far exceeding the ordinary and legitimate premiums to be charged in the regular course of business. The second error was that of permitting mutual companies to issue both mutual and cash policies. These mutual waves have gone over the country at irregular intervals ever since and in each instance, the original experience has been duplicated to a greater or less extent.

Two forms of mutual companies have persisted. One, township mutuals, which as long as they confine their operations to a small territorial area, where every person knows every other person, aid in the distribution of the fire loss of a given country community and serve their purpose well. Where they branch out and attempt to do a village and city, or general business, failure is inevitable. The second form of mutual development is that typified by the mill mutuals. These are based upon knowledge, inspection and improvement. They have, however, in all cases ultimately failed as mediums for transacting a general fire insurance business.

The companies gradually recovered from the blow of the New York fire and in a few years additional companies had started so that the number of companies was in a measure, commensurate with the growing business of the country. There were a large number in New York, Philadelphia and Boston, and there were companies in other cities where there was enough local business to warrant. These companies served the business of the country well, as a whole, and only began to retire as the development of the country's business interests, consequent upon the development of the railway system and the telegraph, gave the company doing a general business a decided advantage over the one doing a local business. In this period also state supervision took a definite form in the shape of the establishment of departments by New York and Massachusetts and gradually by other states. Attempts were also made to



devise a more nearly uniform fire insurance policy. Up to this time, and for a considerable time thereafter, each company devised its own policy contracts. It took what seemed to be good out of the English policies, clipped from its neighbors, and as one man with much experience said, this was, so far as policies were concerned, the period of scissors and paste pot. The agents and the companies, principally the companies, in some of the large cities, formed local boards during the fifties. These boards, dominated mostly by local companies, were the forerunners of the present system of organizations of local agents, but were materially different because they were largely experimental. Out of this local board movement also grew an agitation for better fire protection, and thus while in the early history of the country, nearly all the fire departments were volunteer, paid departments gradually became the rule, and the companies established protective departments for the protection of damaged stocks so that the loss might be lessened through care. The successors of these departments are the fire patrols of to-day. Some facts concerning these early local boards may be of interest. In 1819, an organization was formed in New York, known as the Salamander Society, the members of which were pledged not to deviate from established rates of premium. New companies were invited to join and if they refused, were to be specially considered, which appears to have been understood and acted upon as a threat. This organization was of little practical significance, and was followed by another organization in 1826 and another in 1857, which formed the fire patrol or fire police in 1859. Some few attempts were made in the late thirties and in the forties towards standard rating, but merely amounted to a faint foreshadowing of the system which is being striven for to-day. The record of the New York board is typical of most of the local boards of the earlier day.

Another step in the progress of this period was the employment of special agents, better known as field men, owing to the spreading out of companies which did business in other places than the immediate vicinity of the home office. The strictly local company could supervise and care for its business through employees of the home office. When distances, however, became too great for this class of employees, men had to be employed for this special work of looking after the field. At first, the greater part of the work of special agents was the adjustment of losses, though they paid some

attention to the agencies, at times inspecting risks and authorizing rates. The period under review was one when the West was being settled and the foundation laid for the magnificent development of the latter half of the nineteenth century. These pioneers with their poorly constructed and rapidly-growing villages and cities, soon felt the need of fire insurance. Yet the Middle West, or as sometimes termed, "beyond the Alleghenies," was almost an unknown land and the ignorance of the East persisted long after the canal boat, river steamer and railway had begun to open this region.

In the history of the early days of insurance in Connecticut, attention was called to the fact that the Hartford Insurance Company, organized in 1803, to write marine insurance was merged in 1825 with the Protection, organized to write a fire insurance business. The secretary of the Hartford became the president of the Protection, while the secretary of the Protection, Thomas Clap Perkins, had much to do with the pioneering work of the Protection. Ephraim Robins, a merchant of Cincinnati, saw a notice in a Hartford paper that the Protection had been formed. Having lost most of his property in a cyclone, the importance of insurance was presented in a very forceful way to the mind of Mr. Robins. He came to Hartford, presented the claims of the West in such a way that the company authorized the establishment of a western department with Mr. Robins as general agent. This was in 1825, and the task of planting the agencies of the company in Ohio and other western states was immediately started. The company's office was a sort of headquarters for prominent Whig politicians, and also proved to be a training school for some of the brightest and most successful men in western fire insurance. The western department of the Protection was the beginning of the American agency system on anything like a large and comprehensive scale. The business grew rapidly and when Mr. Robins died in 1846, the premiums collected by the agency amounted to three million dollars. From the western office of the Protection, went the forerunners of the modern special agent or field man. Among the prominent fire insurance men who were trained in the western office of the Protection, may be noted the Bennett brothers, J. B. and F. C., H. M. Magill, W. H. Wyman and several others. The Protection eventually failed because it did not build up a large enough surplus and its officers did not really know where the company stood owing to a lack of systematic knowledge.

Following the Protection, the Insurance Company of North America and the Ætna made the venture into the territory west of the Alleghenies, the former locating at Erie and the latter at Cincinnati. The failure of the Protection gave a great impetus to the development of the western department of the Ætna, as it was in the field and ready to make the most of the opportunity offered. In 1853, J. B. Bennett became general manager of the Ætna and took charge of the western business. The same year that he took charge of the Ætna's affairs, J. B. Bennett prepared a blank proof of loss. Before this time, these proofs had been written out on the occasion of each adjustment. This was a waste of time from Mr. Bennett's standpoint and so he prepared a form which, in its essential features, has not been changed since. The Hartford began to send out numbered policies in 1864. These companies employed special agents, who, working under conditions hard to realize to-day, went up and down the country, appointing agents, inspecting towns and settling losses. Indeed the fire insurance business is greatly indebted to these men for their faithful labor. Many mistakes were made in this period, because there was little co-operation, but still there was a gradual approach toward better conditions and a larger and more comprehensive development. Nearly, if not all of the companies organized during the first period, made the mistake of dividing too large a proportion of the profits and thus not leaving enough money to meet the drain of heavy losses. When a big fire occurred, the companies found themselves in a difficult situation and several times it was only by guaranteeing by the directors of their personal fortunes that a company was enabled to survive. This tendency of keeping up dividend payments at the expense of surplus, continued well past the middle of the nineteenth century and the importance of maintaining a good working surplus was not fully realized until after the Chicago and Boston fires. In 1864, the superintendent of the New York insurance department in his annual report, declared that several companies were accustomed to declare dividends without making any provision at all for outstanding risks. Legislative provision was made in New York to prevent this, as in 1849, it was enacted that "no dividend should ever be made by any company when its capital stock was impaired or when the making of the dividend would have the effect of impairing its stock, and any dividends made in violation to such section, subjected the stock-

holders to an individual liability to the creditors to the extent of the dividend so received." Still they continued the practice of declaring such dividends until forced by the hard school of experience to transact their business upon business principles.

The third period of fire insurance development begins practically with the close of the Civil War. This may be termed the period of co-operations. Conditions were very unsatisfactory; rates were low, and prosperity for the companies was not very apparent. Hence, in 1866, the fire insurance companies of the country organized the National Board of Fire Underwriters, and for the next ten years it was the controlling factor in fire underwriting, and marks the most important change which had so far been brought about in the fire insurance business. Its purpose was to bring about a co-operation between the companies upon matters of common interest, and to insure adequate rates and proper forms. At this time there were a very large number of local companies and quite a number of what are best classified as agency companies. No one man in this period did anywhere near as much for the development of the business and the establishment of new ideas as J. G. Bennett, western manager of the *Ætna*, who made it a point to familiarize himself with the western country, which was then one of magnificent distances.

Three new factors came into the fire insurance business about this time: First, the daily report, devised in 1867 to facilitate the transaction of business, gradually took the place of the old monthly statement, but was slow in winning favor with underwriters since some of the managers preferred the old form of reporting as being more satisfactory. The original form of the daily report devised by Alexander Stoddart, has not been materially changed with the passing years. The idea was to select good men in the different towns as representatives, have them examine the property upon which insurance was sought and send in a daily report, containing the written portion of the policy and diagram of its exposures, the rate, terms, etc.; in fact, a practical reproduction of the descriptive part of the policy. This was sent to the home office, the agent at the same time writing and issuing the policy. If the company did not care for the risk, it notified the agent and the policy was withdrawn. This departure placed a very great responsibility upon the local representatives since they virtually passed upon the business of the company and most of them, be it said to their credit, served their

company most faithfully. This plan was popular and was gradually adopted by all the companies. It is one of the great foundation stones of the modern agency system.

Out of this idea of a daily report grew two others. The first one was to have some means of keeping the home or branch office in touch with the agents, and also affording the company an independent source of information concerning the character of the business written. For this purpose, the special agent had the scope of his employment widened beyond the mere adjustment of losses. He travelled around among the agents, appointed new agents in desirable territory, secured an idea of the larger risks and special hazards of the towns he visited, saw to it that the agents kept their monthly accounts paid up and, generally speaking, was the hand of the company in the field. Soon the incompleteness of the information furnished the home or branch office, as to the physical character of the risks and their environment presented a problem which had to be solved. To solve this, the special agents made diagrams of the towns they visited and marked upon them the risks of the company. Originating in the Ætna's western office, but antedating this period a little, was the business of making maps. On the first of May, 1856, William H. Martin, a civil engineer, was employed by the Ætna to make maps of important points where the company was transacting business and in June of the same year, the first map was copyrighted in the name of the Ætna Insurance Company. One of Mr. Martin's assistants, D. A. Sanborn, saw the possibilities of the map business. He removed to New York and tried to induce Mr. Martin to join him, but the latter preferred to remain with the Ætna and did so until his death in April, 1903. These maps made it so much easier to transact the business of the company that quite a demand was created for them, resulting in the almost universal use of what are known as the fire maps. The large towns and cities are mapped, and the map company keeps them up to date, supplying the insurance company with all the changes. The map department of the modern fire insurance company is one of its most important adjuncts. It enables the daily report examiner or manager in the office to know quite accurately about the character of the risk he is to pass upon. The amount which the company has in any block is marked on the map, so that at a glance, it is possible for the company to decide whether it desires to increase its holdings.

Before the use of maps, however, all of the risks of the company were marked, and a record of the company's holdings were kept on what are known as block sheets. These enabled the company to know the amount it had at risk, though they did not furnish information as to environment such as the modern fire map gives at a glance. These three devices gave the business a wonderful impetus. An old underwriter, for example, states that one of the great advantages secured through the use of the daily report was that the frequency of the knowledge prevented stealing on the part of agents through writing short term insurances which were not reported. This underwriter estimated that his office saved at least 12 per cent. through the increased frequency of knowledge concerning the writings of the local agents.

Belonging to this third period, but really beginning with the closing years of the second period, was the opening of the Pacific coast to the business of fire insurance. The Phoenix, of Hartford, was the pioneer. The officers of the Phoenix visited the Pacific coast, looked over the ground, and on May 1, 1862, established a Pacific coast department in charge of R. H. Magill. At this time, all the fire insurance business of the coast was written at San Francisco through correspondents. The company had a correspondent in a town, information concerning the risk and the amount desired was sent in, the policy issued and forwarded. This was rather cumbersome and slow, so in 1863, Mr. Magill began the establishment of local agencies in the towns of the coast. His success was so great that other companies were obliged to follow his example.

The National Board of Fire Underwriters was just beginning to wrestle with some of its difficult problems when along came the Chicago fire and wiped out many of the insurance companies of the country. Many of the purely local companies were caught through the surplus lines they wrote or the re-insurances which they secured from the agency companies. The companies had only partially recovered when along came the Boston fire and completed the wrecking of a large number of the fire companies which had been struggling along in a crippled condition during the year intervening between the two fires. The National Board now promptly took hold of the situation, and rates were sharply advanced. State boards and local boards in smaller towns were organized and an elaborate system of control was worked out; in fact, in the long run, it was too elaborate. These

fires imposed upon the National Board not only revision of rates, but also problems of construction. Chicago had been a wooden city, Boston had also much wood in its construction, and the dangerous mansard roof was then in the heyday of its popularity. A determined crusade was therefore made against these forms of construction, and the preparation of a basis or schedule for rating was attempted at this time. There was also a large influx of new companies as a result of the increased rates following the Boston and Chicago fires.

In 1874, the companies doing business in New York were compelled to report their unearned premium liability, and to this period also belongs the adoption of the safety fund law in New York. The increase in the number of companies and the profit which attended the business because of the increased rates, induced a period of demoralization which extended from 1874 to 1880, during which numerous irresponsible companies were formed. To make matters worse, the National Board, in April, 1877, stopped making rates and relegated this subject back to the local boards, with the result that the high rates could no longer be maintained. Every company was a law unto itself; there was no profit, and it was apparently a struggle for the survival of the fittest. The fire insurance business, however, had become so large that this demoralization could not be permitted to continue. Some method of co-operation had to be found, and this begins the last period of this study. It should be noticed here that fire insurance had been going through an evolution, and step by step, the scope had become broader and better calculated to assist the business development of the country. New ideas and new doctrines had come to the front as necessity compelled. The rating by the National Board, through its state boards and local boards, had been so much of an improvement over the former conditions that things could not be permitted to go backward. Something new, however, had to be devised.

In the eighties, the field man proved the way out. He had been doing his work quietly and unobtrusively and the main difficulty had been lack of numbers and too large territory to oversee. The abdication by the National Board of its rate-making powers, threw a large amount of additional work upon his shoulders. Accordingly, in 1872, the New York State Association of Supervising and Adjusting Agents was organized; in 1881, the Underwriters' Association

of the Middle Department; in 1883, the Underwriters' Association of New York State and the New England Insurance Exchange; in 1882, the Illinois State Board of Fire Underwriters—all of which may be considered as pioneers in the attempts at co-operation. Into the hands of these associations the detailed work of rate-making was given. Upon them also fell the work of readjusting the local boards, so that the chain of co-operation might be complete. The local agents, then the special agent, and the problems which they could not individually adjust, were sent to the field men's organization and the residue of problems was sent up to the organizations of the companies. Two of these organizations were formed about this time, namely, the Western Union in 1879, and the Southeastern Tariff Association in 1882, while the Fire Underwriters of the Pacific had been in existence since 1870. The Western Union and the Eastern Union are now the managing underwriters' medium of co-operation in the territory east of the Rocky Mountains, while the Pacific coast is under another organization. An outgrowth of the National Board should be mentioned here, namely, the Fire Underwriters' Association of the Northwest. When the National Board gave up its rate-making function the Northwest Association became simply a social and educational association of the western field men, and has increased from year to year in power and influence, until it is the leading social and educational association of the field men in this country.

One of the first practical problems of this period was that of policy forms. There had gradually grown up a fairly satisfactory policy in some sections, but it was purely a local policy. Every city and every section used one that was a little different. Then again, the companies did not cling as closely to one form as they might, and as a result, in adjustments, there were conflicting forms. In reality it was difficult under those various forms to determine the liability of the corporation. The National Board adopted a standard policy, but it did not make much progress and finally, in 1873, Massachusetts provided for a standard policy, which was made obligatory in 1880 upon all companies operating in that state. In 1886 New York adopted a standard form of policy which became mandatory in January of the following year, and which is now in use in all the states where there are not special forms provided by statute.

The next step in the evolution was in the matter of inspections.



The mill mutuals, as certain New England companies are styled, were organized under the theory that it was cheaper to prevent fires than to pay losses. Therefore they developed a very thorough system of inspection and the use of fire preventive appliances. Chief among these fire preventive appliances are what are known as automatic sprinklers. The early sprinklers were not particularly satisfactory, but out of the evolution of experience came the modern heads, most widely known of which is the Grinnell. The stock companies found it necessary to meet the competition of these mill mutuals, and so there arose what is known as the Factory Insurance Association, organized in 1890. This was followed soon after by a similar organization in the West, and these organizations make a special feature of inspecting property and writing large policies upon such protected and inspected risks. In line with this idea is the spread of fire preventive methods. This fire prevention idea includes not only sprinklers, but construction, water supply, electrical wiring and numerous other provisions for the prevention of fire. The National Fire Prevention Association, organized in 1896, has done more to lessen the number of fires by means of proper construction than all other agencies put together. It has enlisted science, architecture and chemistry in the prevention of fires.

The rating problem has been and still is one of much difficulty. It is hard to build up a system of rates for fire risks which shall be equitable and easily comprehended by property owners. The physical character of risks varies so, and there is so little harmony in the matter of water supply and fire protective appliances in the different cities that the rating problem becomes and is many sided. The first systematic plan was devised by a committee of which F. C. Moore was chairman, and the schedule known as the universal mercantile schedule was promulgated in 1893. It is the main basis for fire insurance rates at the present time. In the late nineties, A. F. Dean, of Chicago, who had been making a careful study of rates, prepared a tariff known as a "Mercantile Tariff and Exposure Formula for the Measurement of Fire Hazards." It is based upon a different theory from the Moore schedule. It is more scientific and flexible and has come into quite general use in the Middle West, and bids fair, as regards principles at least, to become the basis of fire insurance rate making.

Legislation affecting fire insurance has grown from small be-

ginnings to one of large proportions. Legislation touches the fire insurance business at many points. In 1885, the State of New Hampshire enacted what is known as the valued policy law. This law prevented any questioning of the value of the buildings insured and the companies promptly withdrew from the state for several years. Laws similar to this have been enacted in quite a number of states, with the result of increasing the cost of insurance to the buyer. Then adverse legislation has also attempted to prevent co-operation between the companies through the enactment of anti-compact laws and the prohibition of certain clauses in policies. The men who levied taxes began soon after the war to realize that the insurance business was a good field for their activities, so they began to tax premiums, impose fees for filing statements and devise other taxes which aggregated a large amount and have always been a very material burden. As the needs of the states have increased, so the burdens imposed upon the companies have increased. In the later development of fire insurance, legislation and taxes have been among the most serious of the problems to be faced. Despite adverse legislation and the disintegrating tendencies of prosperity, co-operation has progressed. The companies have more and more found themselves unable to stand alone. There were so many points where their interests touched, so many ways in which they could help each other that co-operation has become a powerful factor in the business.

Another feature of this period was the foundation of organizations for adjustment of losses whereby a company, when it was not convenient to employ the special agents, could secure the service of trained and expert adjusters. These organizations do good work and fill a want long felt. This was followed in due time by a plan for minimizing the expense and increasing the efficiency of adjustments. This originated in New York and makes for progress in the matter of systematic work. Still another advance has been that of salvage wrecking or the handling and sale of damaged stocks, an advance which has manifested itself both in the form of company organizations and private corporations.

Despite the many lines of progress, however, there has been from time to time the recurring mutual wave and the Lloyds craze. The latest of these waves, that of Lloyds, has only recently receded. It followed a high tide of mutual experiment, neither of these waves evidencing any advance in the direction of sound underwriting.

After the Lloyds wave began to recede, legislation was invoked, and only last winter the New York legislature enacted legislation against the vanishing Lloyds form of underwriting. Duplication of company power was also attempted in 1897 and 1898 in the form of underwriters' agencies or the attempt to form two companies out of one. They created some discussion and friction, but only a few remain and it is questionable how successful they are. The latest phase of the business of insurance to be noted is that of the organization of the local agents into co-operative relations. The agents, like the companies, have found that they have many interests in common, and that one agent standing by himself does not amount to more than one company standing by itself. Having come to the conclusion that certain things of vital interest to them might be improved, they have formed a national association as well as state associations, whose work, as a whole, has been a benefit to the business.

From this historical study the reader will, no doubt, have noted the very great advance made in fire underwriting since the period when trees were not permitted in front of insured property. The evolution has been fragmentary, it is true, and not altogether in an orderly manner, but it has been a steady evolution nevertheless. Starting in ignorance of method, only having an object in view, the business of fire insurance has gradually reached out, and has more and more found a sure footing. The managers have noted where the relations of the business demanded changes; conflagrations have brought home to them certain truths; and when a form of organization or a method of doing business has broken down, men have been found to come forward to try something new, generally an advance over that which had been discarded. These men soon realized that the sole business of fire insurance was not simply to pay losses. The evolution has naturally been gradual up to the point where the skilled and capable underwriter recognizes that his business, being a part of public progress, should subserve the public interest best by preventing fires. Therefore, he has made concessions in rates for the men who will take the extra precautions in the line of building and fire prevention. His horizon has broadened and he sees that fire fighting and construction are closely related in the prosperity of his business. He has learned, but slowly it is true, but nevertheless he has learned, that what the public desires above

everything else, is certainty, and while he has grumbled many times at the intervention of the state in his business, to-day he recognizes that intervention, as a rule, makes for the certainty which both he and the assured desires. There are many incidents and events in the century and a half of fire insurance in this country, which might have been wisely different, but taken as a whole, it has been a sound and progressive development, comparing favorably with that of any other line of business.

## STANDARD FIRE INSURANCE POLICY

### *An Analysis of its Provisions and a Brief Discussion of the Legal Questions Involved.*

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BY F. C. OVIATT.

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What is a fire insurance policy? A fire insurance policy may be defined as "a contract to indemnify the holder thereof for actual destruction, by a certain immediate cause, *i. e.*, fire, of value appertaining to certain specified property owned by him."<sup>1</sup> While there are different forms of policies, the foregoing definition is the basis of fire insurance contracts. There are some differences in phraseology, and in some of the provisions of some of the statutory policies, but in essence they are the same and are founded upon the fact given in the definition. It should also be noted that the indemnity is for actual loss sustained.<sup>2</sup> A man should never receive more than the amount of his loss, as it is against public policy for a man to profit by the destruction of his property by fire. The real or actual value cannot always be determined in advance of the fire, especially where personal property is concerned. A stock of merchandise or of material is likely to vary in value, but the owner endeavors to keep some fairly consistent ratio between the value of the property and the amount of insurance carried. While expert accounting has made

<sup>1</sup> The conditions which surround an insurance contract as regards person, place, and property are admirably summed up in Ostrander on Fire Insurance Section 33.

<sup>2</sup> The measure of damage was that agreed upon in the policy, to wit: "The actual cash value at the time of the loss and damage; also that the option to replace the machinery, if destroyed, was a reservation for the benefit of the company. They were not bound to adopt it. What it would cost, therefore, to replace the reaping machine did not furnish the room for damages which the company must pay to make good the loss. Nor was the fact that the machines insured were constructed under a patent of any importance. Patented or unpatented, what they were worth at the time of the fire, was by agreement of the parties to be the measure of their value, and this must be ascertained by testimony as is done in every other case where this value is not fixed." (*Commonwealth Ins. Co. v Sennett*, 37 Pa. 205). It is not the cost of rebuilding, but the money value at the time of the fire. *Waynesboro Mutual Ins. Co. v. Creaton*, 98 Pa. 451.

a great advance in this country within the past few years, there are still many manufacturers and merchants who do not keep their books and accounts in such a way as to actually set forth the value of what they have on hand at the time of the fire. The investigations which often accompany an adjustment not infrequently reveal a condition of affairs as to value and quantity which are quite unexpected by the property owner.

Most men, when they insure buildings, believe themselves entitled to recover for the amount of the policy. Buildings are, however, not by any means stable in value. They are subject to constant deterioration. Then, again, as the building becomes less desirable for a certain occupancy, either through unsatisfactory interior arrangements or lessened desirability of location, its value decreases because its earning power has decreased. Calculations based upon an experience involving some three hundred and fifty thousand policies, show that about one policy in thirty results in a claim. Of these claims, not over ten per cent. are for total losses. To illustrate this, it may be assumed that one hundred thousand buildings of all kinds are insured. Not more than three thousand, three hundred and thirty-three are injured by fire, and not more than three hundred and thirty-three are totally destroyed. Therefore, out of one hundred thousand contracts, in not more than three hundred and thirty-three cases can the question arise as to whether the value of the property destroyed is less than the insurance. This illustration, of course, applies to buildings, and not to personal property. The value contemplated so far as the insurance of a building is concerned is what it would cost to reinstate the property in the same condition as before the fire, subject to a reasonable deduction for depreciation from use or neglect.

In the case of personal property, the value of the manufacturer's goods consists of the cost of his raw material at the time of the fire, plus transportation charges and cost of manufacture. The value of his machinery is measured by what it would cost at the time of the fire to purchase and set up machines similar to those destroyed, with a suitable deduction for the difference in value between old and new machinery. Where property which is normally subject to fluctuation in value is insured, the price at the time of the fire controls. If grain is bought and stored at seventy cents per bushel, and burns when similar grain is worth ninety cents per bushel in the market,

ninety cents is the limit of value in making up the claim. If, on the other hand, grain falls to fifty cents, then fifty cents is the limit of value. Then, again, some property depreciates very rapidly, a fact which must be taken into account in the matter of values. A threshing machine five years old is practically valueless; an automobile three years old has lost a large part of its value. Fashion also takes a hand in changing values. An Easter hat will have no particular value if it should burn in the fall following the Easter when it was in fashion. Fire has not destroyed its value, it is not worn out, but Dame Fashion has said it is out of date.

An insurance policy is a personal contract. It does not follow the property, and, properly speaking, it does not insure the property at all. It simply agrees to indemnify the owner for a loss occurring to him personally by reason of the damage or destruction of certain property. Consequently, to recover under a fire insurance policy one must show ownership or an insurable interest. Many questions arise in the adjustment of losses over this question of ownership, and it is always a part of wisdom for a man to be sure that he possesses an insurable interest in the property covered by the policy taken out in his name.<sup>3</sup> If John Jones sells a house to William Smith, and gives him possession, John Jones's fire insurance policy does not insure William Smith. If the policy has not been taken up and rewritten in the name of William Smith, then William Smith must bear the loss in case of fire for John Jones cannot collect, since he does not own the property, and William Smith cannot collect because he has no insurance policy. A man may insure such interest as he possesses in certain property against the risk of loss by fire. This includes mortgage interest, an equitable interest in the property, the pledging of property as a security for a loan such as grain in storage. Then again, a fire insurance policy is not only a personal contract, but a personal contract covering property located at a specified and definite place.<sup>4</sup> If the American Fire Insurance Company of Philadelphia issues a policy on a stock of merchandise located at the corner of Girard avenue and Twelfth street, and the goods are moved to the

<sup>3</sup> Insurance being a contract of indemnity it appertains to the person or party to the contract and not to the property which is subjected to the risk. *Cummings v. Cheshire County Mutual Ins. Co.*, 55 N. H. 457; *Ostrander on Fire Insurance*, 209.

<sup>4</sup> The courts generally hold that the risk does not follow the goods to any other location than that described in the policy. *Maryland Fire Ins. Co. v. Gusdorff*, 43 Md. 506; *London and Lancashire Ins. Co. v. Lycoming Fire Ins. Co.*, 105 Pa. 424.

corner of Forty-third street and Lancaster avenue, even if the ownership remains the same, the insurance is void because of a change in location without the permission of the company. A fire insurance policy is not only a personal contract, definite in its location, but it also requires a description of the property, and that which is not included in the description is not covered by the policy. Wheat is not insured under a policy describing corn; an automobile is not insured under a policy describing a sleigh.

Having given this preliminary statement of what a fire insurance contract is, what it covers and what it does not cover, let us trace briefly the process of evolution which has resulted in the standard fire insurance policy. In the earlier days, each company issued its own form of policy. The form of policy issued by the Philadelphia Contributionship, the oldest fire insurance company in the country, when it began business, was closely modeled after the English policy of that day. As the business developed, however, policy contracts began to vary. The progressive and aggressive companies sought to make an attractive form of policy while some others issued forms which apparently afforded an opportunity for contests in case of loss. In the case of large fires there would be several companies on a single loss, and with each company issuing a different form, adjustment of losses became difficult. Thus the next step was a local policy, that is, companies in prominent cities issued practically the same form. Under this arrangement Boston had a form, Hartford another, and Philadelphia and New York another. This did not prove satisfactory, however, since, after the close of the Civil War, companies began to do business quite generally over the entire country and the difficulties of the various forms of policies became very manifest.<sup>5</sup> In 1867 and 1868, the National Board of Fire Un-

<sup>5</sup> In *Delancy v. Rockingham Farmers Mutual Fire Ins. Co.*, 52 N. H. 581, the court gave an admirable statement of the conditions arising from a multiplicity of policy forms. The language of the court is given herewith:

"The principal act of precaution was to guard the company against liability and losses. Forms of applications and policies (like those used in this case) of a most complicated and elaborate structure were prepared and filled with covenants, exceptions, stipulations, provisions, rules, regulations and conditions, rendering the policy void in a great number of contingencies. These provisions were of such bulk and character that they would not be understood by men in general, even if subjected to a careful and laborious study; by men in general they were sure not to be studied at all. The study of them was rendered particularly unattractive by a profuse intermixture of discourses on subjects in which a premium payer would have no interest. The compound, if read by him, would, unless he were an extraordinary man, be an inexplicable riddle, a mere flood of darkness and confusion. Some of the most material stipulations were concealed in a mass of rubbish on the back side of the policy and



derwriters, an organization including most of the companies of the country, devised and adopted a form of policy designed to be universally used. The universality, however, did not extend very much beyond New York City. Five years later the Massachusetts legislature enacted a law providing for a standard form of policy, and in 1880 the use of this form of policy was made mandatory for all companies operating in that state. In 1886, the legislature of New York adopted a standard form of policy which became mandatory January 15, 1887. This policy was devised by the superintendent of insurance after consultation with insurance officials and organizations. It was carefully prepared, and while not entirely ideal, is

the following page, where few would expect to find anything more than a dull appendix and where scarcely anyone would think of looking for information so important as that the company claimed a special exemption from the operation of the general law of the land relating to the only business in which the company professed to be engaged. As if it were feared that notwithstanding these discouraging circumstances, some extremely eccentric person might attempt to examine and understand the meaning of the involved and intricate net in which he was to be entangled—it was printed in such small type and in lines so long and so crowded that the perusal of it was made physically difficult, painful and injurious. Seldom has the art of typography been so successfully diverted from the diffusion of knowledge to the suppression of it. There was ground for the premium payer to argue that the print alone was evidence, competent to be submitted to a jury, of a fraudulent plot. It was not a little remarkable that a method of doing business not designed to impose upon, mislead and deceive him by hiding the truth, and depriving him of all knowledge of what he was concerned to know, should happen to be admirably adapted to that purpose. As a contrivance for keeping out of sight the dangers created by the agents of the nominal corporation, the system displayed a degree of cultivated ingenuity which, if it had been exercised in any useful calling, would have merited the strongest commendation.

"Traveling agents were necessary to apprise people of their opportunities and induce them to act as policyholders and premium payers, under the name of "the insured." Such emissaries were sent out. The soliciting agents of insurance companies swarm through the country, plying the inexperienced and unwary, who are ignorant of the principles of insurance law and unlearned in the distinctions that are drawn between legal and equitable estates. *Combs v. Hannibal Savings Ins. Co.*, 43 Mo. 148, 162; 6 Western Insurance Review, 467, 529. The agents made personal and ardent application to people to accept policies and prevailed upon large numbers to sign papers (represented to be mere matters of form) falsifying an important fact by declaring that they made application for policies, reversing the first material step in the negotiation. An insurance company, by its agent, making assiduous application to an individual to make application to the company for a policy, was a sample of the crookedness characteristic of the whole business.

"When a premium payer met with a loss, and called for the payment promised in the policy which he had accepted upon most zealous solicitations, he was surprised to find that the voluminous, unread and unexplained papers had been so printed at headquarters and so filled out by the agents of the company as to show that he had applied for the policy. This, however, was the least of his surprises. He was informed that he had not only obtained the policy on his own application, but had obtained it by a series of representations (of which he had not the slightest conception) and had solemnly bound himself by a general assortment of covenants and warranties (of which he was unconscious), the number of which was equalled only by their variety and the variety of which was equalled only by their capacity to defeat every claim that could be made upon the company for the performance of its part of the contract. He was further informed that he had succeeded in his application by the falsehood and fraud of his representations—the omission and misstatement of facts which he had expressly cove-

the best and most satisfactory fire insurance contract yet brought into anything like general use. It has been made mandatory by seven other states, and is used generally in all the states where the statutes do not forbid. The following states have standard forms of their own: Maine, Massachusetts, New Hampshire, Michigan, Missouri, Virginia and Wisconsin. For the purposes of this paper the New York form will serve as the basis of discussion. There is no standard form prescribed in Pennsylvania, but the New York policy is used.

We will consider the provisions of the standard policy under the following heads: First, Requirements; second, Exemptions; third, Permissions; fourth, Co-operations.

nanted truthfully to disclose. Knowing well that the applications were made to him and that he had been cajoled by the skillful arts of an importunate agent into the acceptance of the policy and the signing of some paper or other, with as little understanding of their effect as if they had been printed in an unknown and untranslated tongue, he might well be astonished at the inverted application and the strange multitude of fatal representations and ruinous covenants. But when he had time to realize his situation, had heard the evidence of his having beset the invisible company and obtained the policy by just such means as those by which he knew he had been induced to accept it, and listened to the proof of his obtaining it by treachery and guilt in pursuance of a premeditated scheme of fraud with intent to swindle the company in regard to a lien for assessments, or some other matter of theoretical materiality, he was measurably prepared for the next regular charge of having burned his own property.

"With increased experience came a constant expansion of precautionary measures on the part of the companies. When the court held that the agents' knowledge of facts not stated in the application was the companies' knowledge, and that an unintentional omission or misrepresentation of facts known to the company would not invalidate the policy, the companies, by their agents, issued new editions of applications and policies containing additional stipulations to the effect that their agents were not their agents, but were the agents of the premium payer; that the latter was alone responsible for the correctness of the applications, and that the companies were not bound by any knowledge, statements or acts of any agent not contained in the application. As the companies' agents filled the blanks to suit themselves, and were in that matter necessarily trusted by themselves and by the premium payers, the confidence which they reposed in themselves was not likely to be abused by the insertion in the application of any unnecessary evidence of their own knowledge of any thing, on their own representations, or their dictation and management of the entire contract on both sides. Before that era it had been understood that a corporation—an artificial being, invisible, intangible and existing only in contemplation of law—was capable of acting only by agents; but corporations, pretending to act without agents, exhibited the novel phenomena of anomalous and nondescript, as well as imaginary, beings, with no visible principal or authorized representative; no attribute of personality subject to any law or bound by any obligation, and no other evidence of a practical, legal, physical or psychological existence than the collection of premiums and assessments. The increasing number of stipulations and covenants, secreted in the usual manner, not being understood by the premium payer until his property was burned, people were as easily beguiled into one edition as another, until at last they were made to formally contract with a phantom that carried on business to the limited extent of absorbing cash received by certain persons who were not its agents.

"When it was believed that things had come to this pass, the legislature thought it time to regulate the business in such a manner that it should have some title to the name of insurance and some appearance of fair dealing."

*Requirements.*

Under the head of requirements, we will first consider what is required of the company, then what is required of the insured, giving the text of the policy as an aid to obtaining a clear understanding of the requirements:

"In consideration of the stipulations herein named and of — dollars premium, does insure — for the term of — from the — day of —, 190—, at noon, to the — day of —, 190—, at noon, against all direct loss or damage by fire, except as herein-after provided, to an amount not exceeding — dollars, to the following described property while located and contained as described herein and not elsewhere, to wit:"<sup>6</sup>

This is the opening statement of the policy. Please notice that the consideration is not entirely the premium, but that the stipulations of the contract are as much a part of the consideration as the money paid as premium. For the premium received and the stipulations named, the company is obligated as follows:

"This company shall not be liable beyond the actual cash value of the property at the time any loss or damage occurs."<sup>7</sup>

As explanatory of this, is the following statement:

"And the loss or damage shall be ascertained or estimated according to such actual cash value, with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost the insured to repair or replace the same with material of like kind and quality."<sup>8</sup> The company is still further required in lines three and four of the policy as follows: "The sum for which this company is liable pursuant to this policy shall be payable sixty days after due notice, ascertainment, estimate and satisfactory proof of the loss have been received by this company in accordance with

<sup>6</sup> The payment of the premium is the first essential of making the contract between the parties valid. The obligation of the insurer must rest upon a consideration. *Ostrander on Fire Insurance*, 272; *Dale v. Insurance Co.*, 95 Tenn. 38.

<sup>7</sup> The contract is one of indemnity, and this indemnity is based upon the principle of restoration of the insured to as nearly his position at the commencement of the risk as may be, and the most satisfactory criterion of the insurable interest is the market value of the insured property at the time and place of the commencement of the risk. See *Marchesseau v. Merchants Ins. Co.*, 1 Rob (La.) 438.

<sup>8</sup> The question is not what it would cost to rebuild, but what is shown to be the money value at the time of the fire. *Hilton v. Phoenix Ins. Co.*, 42 Atl. 412.

the terms of this policy.”<sup>9</sup> These lines pretty thoroughly fix the liability of the company, or as they may be termed, are the main things required of the company, the foundation stones upon which are built the liability which the company assumes when it issues its policy. Another requirement of the company is found in lines forty-nine and fifty: “This policy may by a renewal be continued under the original stipulations, in consideration of premium for the renewed term, provided that any increase of hazard must be made known to this company at the time of renewal or this policy shall be void.”<sup>10</sup>

Property is not permitted to wander over the country and still be covered by the policy. The only occasion when it is required of the company to cover in another location is set forth as follows, in lines sixty and sixty-six: “If property covered by this policy is so endangered by fire as to require removal to a place of safety, and is so removed, that part of this policy in excess of its proportion of any loss and of the value of property remaining in the original location, shall, for the ensuing five days only, cover the property so removed in the new location; if removed to more than one location, such excess of this policy shall cover therein for such five days in the proportion that the value in any one such new location bears to the value in all such new locations; but this company shall not, in any case of removal, whether to one or more locations, be liable beyond the proportion that the amount hereby insured shall bear to the total insurance on the whole property at the time of fire, whether the same cover in new location or not.” This provision is inserted for the purpose of not leaving a portion of the property uninsured during the hurry of the few days after the fire. The assured takes his property, puts it in a place of safety and then turns his attention to matters more immediately in hand. He has five days in which

<sup>9</sup> The sixty days in which to make payment do not begin to run until the proofs are entirely completed or the award made. *McNally v. Phenix Ins. Co.*, 42 N. Y. 21. The delay of sixty days is a right of the company both for preparation and for time to investigate the circumstances so that a determination may be had by the company as to whether there is a liability or not. *Doyle v. Phoenix Ins. Co.*, 44 Cal. 264.

<sup>10</sup> When a renewal receipt is issued by the company the contract is continued from the date of its expiration for another term and the terms of the original contract are in force. *Hay v. Star Fire Ins. Co.*, 77 N. Y. 235; *Hartford Fire Ins. Co. v. Walsh*, 54 Ill. 164. In another case, a verbal agreement to renew taken with the receipt of the same premium as paid on the original policy was held to have established a valid contract. *Scott v. Home Ins. Co.*, 53 Wis. 238. When there is a mere promise by the company's agent without the payment of premium, it cannot be regarded as a renewal. *Croghan v. Underwriters Agency*, 53 Ga. 109.

to have his policy amended so that the property shall be protected in its new location, and during these five days he is insured just the same as he would have been had the property remained in its original location.<sup>11</sup>

Moreover, provision is made that "This company shall not be liable under this policy for a greater proportion of any loss on the described property, or for loss by and expense of removal from premises endangered by fire, than the amount hereby insured shall bear to the whole insurance, whether valid or not, or by solvent or insolvent insurers, covering such property, and the extent of the application of the insurance under this policy or of the contribution to be made by this company in case of loss, may be provided for by agreement or condition written hereon or attached or appended hereto." This is really more of a limitation than a requirement, so far as the company is concerned, but it is considered a general requirement because it has to do with that for which the company is responsible, namely the payment of the loss and the amount for which the company may be held liable. It will be noted that the company shall not be liable to pay any greater proportion of the loss on the described property than the amount of the policy bears to the total insurance. Now note the limitation, because this is of immense practical importance to business men: "Whether valid or not or by solvent or insolvent insurers."<sup>12</sup> The property owner says, What does this mean? Let us illustrate. Here are two men who have purchased insurance policies, each to the amount of \$20,000. Each of the men has a fire, and in each case there is a loss of fifty per cent. Property owner A, when he bought his insurance, went bargain hunting. He bought \$10,000 in first-class companies and \$10,000 in companies, which later proved irresponsible, though they had sold him at a reduction of fifty per cent. in the rate. The irresponsible companies did not pay. How much is he to re-

<sup>11</sup> The insured cannot, however, delay more than five days in having the policy transferred to the new location, but he is entitled to recover for injury to the goods while being transferred to the new location. *Case v. Hartford Fire Ins. Co.*, 13 Ill. 676; *White v. Republic Fire Ins. Co.*, 57 Me. 53.

<sup>12</sup> Touching the question of void policies in making an apportionment of the loss, Justice Cooley, in the case of the *Liverpool and London and Globe Ins. Co., v. Verdier*, said: "But the actual liability of the last-named company appears to me immaterial. The plaintiff in error required the insured to stipulate in their policy that in adjusting a loss other existing policies should be taken into account even though forfeited; the plain purpose being to protect the company against the necessity of contesting with the insured any question of the validity or invalidity of other existing policies. This was a competent provision, and not unreasonable."

ceive from the solvent companies? Shall the solvent companies be compelled to pay the entire \$10,000 loss? No. They only pay such a proportion as their policies bear to the total insurance. So property owner A, who hunted cheap insurance, secures \$5,000 with the right to attempt collection of another \$5,000 from the irresponsibles. Property owner B purchased all of his insurance in responsible companies. He receives the entire amount of his loss, so far as it is protected by the \$20,000 of insurance. Now to simmer this illustration down: one solvent company was on each risk. The other companies were only on one of the risks. Now, the solvent company which was on both risks pays just the same in one case as it does in the other. The point is, that in this requirement of the standard policy, the property owner buys cheap insurance at his own risk.

Now let us ascertain what is required of the insured. The payment of the premium is assumed, and hence, although one of the most vital features of the contract, will not be discussed here. Lines seven and ten of the standard policy read as follows: "This entire policy shall be void if the insured has concealed or misrepresented, in writing or otherwise, any material fact or circumstance concerning this insurance or the subject thereof; or if the interest of the insured in the property be not truly stated herein; or in case of any fraud or false swearing by the insured touching any matter relating to this insurance or the subject thereof, whether before or after a loss." This is one of the hard and fast requirements. There is no provision for any variation in it.<sup>13</sup> The courts, as a rule, have

<sup>13</sup> There is a clear statement of this question of warranty in *Chrisman v. State Ins. Co.*, 16 Or. 283. The trial court instructed the jury that the statements contained in the application must be true, "so far as they were material to the hazard, and the materiality of such statements must be shown by the evidence." The Supreme Court took a different view, and in discussing the question, said: "This contract must be so construed as that every word and part thereof shall have effect if possible. This is an elementary rule, to be applied to all writings whenever any right is claimed under them in a court of justice. But, in giving and refusing the charges excepted to, the court below overlooked one essential part of the contract. It is contained in the application and is quoted above. The effect of the material part of it is that if the applicant does not truly answer the following interrogatories, and correctly describe, state, and make known the property, the value, the title, the location, the exposures, the occupancy, the liens, and incumbrances thereon, or if any misrepresentations or omissions to make known any and all facts material to the risk herein, then the said policy shall in either event be null and void. Here the assured was required to make known certain enumerated facts, concerning which he was particularly questioned, and then he was required to make known all facts material to the risk therein, and a failure in either event rendered the policy void. The instruction given by the court was not in accordance with this construction of the policy, and was therefore erroneous; and so, too, as to the instruction refused by the court.

strictly construed this provision, holding that non-compliance with it on the part of the insured will render the policy void.

The next requirement is that which imposes certain duties upon the insured in case of loss. Lines sixty-seven and sixty-nine read:

"If fire occur, the insured shall give immediate notice of any loss thereby in writing to this company, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, make a complete inventory of the same, stating the quantity and cost of each article and the amount claimed thereon." These directions are plain and explicit, and there is no reason for any failure on the part of the insured to do that which is required of him. He cannot make any mistake if he follows exactly the language of the policy.<sup>14</sup>

Lines 70 to 85 of the standard policy have to do with the making out of proofs of loss. The language here is plain and explicit, and so we give it just as it is written in the policy: "And within sixty days after the fire, unless such time is extended in writing by this company, shall render a statement to this company, signed and sworn to by said insured, stating the knowledge and belief of the insured as to the time and origin of the fire; the inter-

The effect of that refusal and the giving of the instruction complained of, was to declare that said policy contained no warranty; that all the statements of the assured in his application were representations merely, and not warranties, and their falsity was of no effect unless material to the hazard of the risk. In this view, the distinction between warranty and a representation was entirely overlooked. The difference between a warranty and a representation is that a warranty must be true, while a representation must be true only so far as the representation is material to the risk; and is material when a knowledge of the truth would have induced the insurer to have refused the risk, or to have charged a higher rate of premium." Ostrander says of this case, "We think this is carrying the doctrine farther than will be justified in view of the general trend of authorities." Farther on in his discussion of this subject, the same author says, "But the courts have been in the habit of construing the insurance contract when it is ambiguous, or when difficulty is experienced in reconciling apparently contradictory provisions, so as to give to the assured the benefit of any doubt which may be found to exist, on the ground that it is the language of the company and not of the insured, and that it was the insurer's duty to make the contract plain and free from ambiguities or contradictions." Ostrander, 377.

<sup>14</sup> The provision appears to be plain and explicit, but still owing to the desire to give effect to the policy, whenever possible for the benefit of the insured the courts have construed a waiver when the facts at all justified it. When there has been a clear preservation of the rights of the company so that no waiver can be construed, the provision has been upheld. Not all courts have construed in favor of the insured, though many have. This also involves what are satisfactory proofs of loss. Strictly construing the making of proofs, see *Allen v. Milwaukee Mechanics*, 106 Mich. 204; *Burlington v. Ross*, 48 Kan. 228. On the other side, see *Flatley v. Phenix Ins. Co.*, 95 Wis. 618; *Matthews v. American Central Ins. Co.*, 154 N. Y. 44. As to what constitutes satisfactory proofs of loss, *Aetna Ins. Co. v. Peoples Bank*, 62 Federal, 222; *Howard Ins. Co. v. Hocking*, 115 Pa. 415; *Towne v. Springfield F. and M. Ins. Co.*, 145 Mass. 582; *Jones v. Howard Ins. Co.*, 117 N. Y. 103.

est of the insured and of all others in the property; the cash value of each item thereof and the amount of loss thereon; all incumbrances thereon; all other insurance, whether valid or not, covering any of said property; and a copy of all the descriptions and schedules in all policies; any changes in the title, use, occupation, location, possession, or exposures of said property since the issuing of this policy; by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of fire; and shall furnish, if required, verified plans and specifications of any building, fixtures, or machinery destroyed or damaged, and shall also, if required, furnish a certificate of the magistrate or notary public (not interested in the claim as a creditor or otherwise, nor related to the insured) living nearest the place of fire stating that he has examined the circumstances and believes the insured has honestly sustained loss to the amount that such magistrate or notary public shall certify.

"The insured, as often as required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as required, shall produce for examination all books of accounts, bills, invoices, and other vouchers, or certified copies thereof, if originals be lost, at such reasonable place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made."

The above requirements must be performed within the sixty days after the fire, unless compliance with the same is waived or extended by the company. There are many different things required in the provisions quoted, and the insured should study them carefully in order that his rights be not injured or lost by omitting to do something required or improperly doing something which he attempts to do. These provisions have resulted in much litigation, and practically every sentence of the provisions covering the adjustment of a loss has been passed upon by the courts. Some of the most important of these are given in the foot notes.<sup>15</sup>

<sup>15</sup> In the case of *Claffin v. Insurance Companies*, 110 U. S. 81, the court said of this provision for exhibits and examinations: "The object of this provision in the policies of insurance was to enable the company to possess itself of all knowledge and all information as to the other sources and means of knowledge, in regard to the facts, material to their rights, and to enable them to decide upon their obligation and to protect them against false claims. And every



Lines 45 and 46 read as follows: "If an application, survey, plan, or description of property be referred to in this policy, it shall be a part of this contract and a warranty by the insured." This matter of warranties has received much judicial interpretation, the question often arising as to what is a warranty, and what a mere representation, the decision on this point having an important bearing on a recovery under the policy. It is very largely a technical question, interpreted according to the viewpoint of the bench, and very naturally there is much conflict among the decisions.

"No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity until after full compliance by the insured with all the foregoing requirements, nor unless commenced within twelve months next after the fire." This provision comprises lines 106 and 107 of the policy and the main point is that of the limitation for the beginning of a suit.<sup>16</sup>

### *Exemptions.*

The second part of the policy to be considered are exemptions. Lines 31 and 32½ read as follows: "This company shall not be liable for loss caused directly or indirectly by invasion, insurrection, riot, civil war, or commotion, or military or usurped power, or by

interrogatory that was relevant and pertinent in such an examination was material, in the sense that the true answer to it was of the substance of the obligation of the assured. A false answer as to the matter of fact, material to the inquiry, knowingly and willfully made with intent to deceive the insurer, would be fraudulent." In the case of *Gross v. St. Paul F. and M. Ins. Co.*, 22 Fed. 74, we quote from the opinion of the court: "The stipulation is a valid one. It is one for the protection of the insurer, and not onerous to the insured. It is akin to the stipulation requiring the insured to exhibit his books of account, invoices, etc.; one in the interests of justice and fair dealing. The insurer may insist on compliance, and the insured must comply or give a valid excuse therefor. (*Mueller v. Ins. Co.*, 45 Mo. 84; *Dewees v. Ins. Co.*, 34 N. J. Law, 244)."

<sup>16</sup> As to limitation we quote from the opinion of Justice Field in *Davidson v. Phoenix Ins. Co.*, 4 Sawyer, 594. "That the condition is valid, there can be no reasonable doubt. There is nothing in it against law or public policy. It rests upon the same grounds as other conditions, such as requiring notice of losses, and a detailed statement of the particulars. Its object is not to deprive the legal tribunals of their proper jurisdiction, but to compel an early resort to them when claims for losses are disputed, or an abandonment of the claims. It may, in many instances, be of great importance to the company that such claims be prosecuted as speedily as possible, whilst the facts are fresh in the recollection of witnesses, and their testimony can be readily obtained. The greater the delay, the greater will be the difficulty of detecting frauds on the part of the insured, or of ascertaining the actual extent of the losses incurred."

order of any civil authority."<sup>17</sup> While exempting the company from liability, it does not mean that such losses may not be recovered, but from the state or municipality instead of from the company. Lines 32½ and 35 exempt the company from losses which may be concurrent with the fire loss, but are not losses by fire itself.<sup>18</sup> Moreover, the company is not liable for loss "by theft; or by neglect of the insured to use all reasonable means to save and preserve the property at and after a fire or when the property is endangered by fire in neighboring premises; or by explosion of any kind (unless fire ensues, and, in that event, for the damage by fire only), or lightning, but liability for direct damage by lightning may be assumed by specific agreement hereon."

Similar to the above exemptions are those mentioned in lines 36 and 37:

"If a building or any part thereof fall, except as the result of fire, all insurance by this policy on such building or its contents shall immediately cease." Suppose a building is blown over by wind, the fire insurance instantly ceases, so that if subsequently burned the fire insurance company is not liable. This provision also covers cases of buildings thrown down by the force of an explosion. Probably the best known of recent cases in this particular are those growing out of the Tarrant explosion in New York. This was a brick building, containing explosive chemicals in quantities larger than permitted by the city ordinance. Through some means these chemicals induced an explosion which wrecked several adjoining buildings and fire ensued and burned up the débris, but the courts held that the buildings fell as the result of the explosion, and that the fire policies ceased when the explosion took place. A

<sup>17</sup> The case of *Ætna v. Boone et al.*, 95 U. S. 117, is a leading one on this point. In holding that the company was not liable, the court said, "In the present case, the burning of the city hall and the spread of the fire afterwards was not a new and independent cause of loss. On the contrary, it was an incident, a necessary incident and consequence of the hostile rebel attack on the town—a military necessity caused by the attack. It was one of a continuous chain of events brought into being by the usurped military power—events so linked together as to form one continuous whole. Hence it must be concluded that the fire which destroyed the plaintiffs' property took place by means of an invasion or military or usurped power and that it was excepted from the risk undertaken by the insurers." Also see *Lycoming Fire Ins. Co. v. Schwenk*, 95 Pa. 89, for meaning of riot.

<sup>18</sup> The burden of proving that the building or any part thereof fell before any fire ensued is upon the company. *Western Assurance Co. v. J. H. Mohlman Co.*, 84 Fed. 811. Where the building, though shattered by the explosion, was not shown to have fallen before the fire, the company was held liable. *Eppens Smith and Wieman Co. v. Hartford Fire Ins. Co.*, 90 N. Y. Supp. 1035.

very important exemption is the following: "This company shall not be liable for loss to accounts, bills, currency, deeds, evidences of debt, money, notes, or securities," which forms line 38 in the standard policy. The general reason why these objects may not be insured is that it would open the door to fraud, therefore to provide for their insurance is against public policy. When it comes to the adjustment of a loss, it is especially desirable that the rights of both parties to the contract be preserved, and inasmuch as the company often desires certain information concerning the fire before determining whether to pay or make a contest, the following provision in lines 92 and 93 was inserted to protect the company in such preliminary investigation: "This company shall not be held to have waived any provision or condition of this policy or any forfeiture thereof by any requirement, act, or proceeding on its part relating to the appraisal or to any examination herein provided for."

There are many cases in the reports dealing with this question of waiver, and a general proposition which may be drawn from them is that the company's representative should use very great care in the preliminary investigation or the courts will hold the company as having waived its rights. It is better to make an independent investigation than to hazard a waiver, for in one case where an agreement was entered into by the representative of the company and the insured that such preliminary investigation should not be waived the court held it to be one.<sup>19</sup>

<sup>19</sup> The decisions upon this question of waiver in preliminary investigations do not agree. We quote from *Briggs v. Firemen's Fund Ins. Co.*, from Mich., quoted in 16 Ins. Law Journal 471, where it said: "It is claimed that the fact of the agent of the company going to the scene of the fire and making inquiries without showing what such inquiries were, and of requesting an arbitration to fix the amount of the loss, and the plaintiff paying one-half of the expense of the arbitration, constituted a waiver of any forfeiture on the ground of over-valuation. We can not concede this claim. The company had a right to make inquiries—to investigate—both as to the origin of the fire and the value of the property, and the contract between the parties was that an arbitration, for the sole purpose of determining the amount of the loss, might be had upon request of either party, and that the expense thereof should be borne equally, and the agreement to arbitrate expressly stipulated that such submission should not be taken as a waiver on the part of the company of the conditions of the policy. In view of these facts, there is no room for claiming a waiver on the part of the company." As to waiver of proofs of loss, the court in the case of *the North German Ins. Co. v. Morton-Scott Co.*, 31 Ins. L. J. 580, said, "We are also of opinion that when an insurance company demands an appraisal or estimate of loss, it must be held to have conceded its liability for some amount, and the only question that remains open is the amount of the loss. This is the last step to be taken in the adjustment of a loss, and not the first one, as is usually held by insurance companies. Unless it be in exceptional cases, there is no necessity for an appraisal as long as liability is denied, and, when the appraisal is demanded, other questions which go merely to the liability of the insurance company must be treated as waived. *Hickerson v. Ins. Co.* 96 Tenn. 193."

*Permissions.*

The third sub-division, and a very important one, deals with the matter of permissions. Lines 11 and 30 inclusive set forth a large number of acts of omissions which shall render the policy void unless permission be indorsed thereon: "This entire policy, unless otherwise provided by agreement, indorsed hereon or added hereto, shall be void if the insured now has or shall hereafter make or procure any other contract of insurance, whether valid or not, on property covered in whole or in part by this policy; or if the subject of insurance be a manufacturing establishment and it be operated in whole or in part at night later than ten o'clock, or if it cease to be operated for more than ten consecutive days; or if the hazard be increased by any means within the control or knowledge of the insured; or if mechanics be employed in building, altering, or repairing the within described premises for more than fifteen days at any one time; or if the interest of the insured be other than unconditional and sole ownership; or if the subject of insurance be a building on ground not owned by the insured in fee simple; or if the subject of insurance be personal property and be or become incumbered by a chattel mortgage; or if, with the knowledge of the insured, foreclosure proceedings be commenced or notice given of sale of any property covered by this policy by virtue of any mortgage or trust deed; or if any change, other than by the death of an insured, take place in the interest, title, or possession of the subject of insurance (except change of occupants without increase of hazard), whether by legal process or judgment or by voluntary act of the insured, or otherwise;<sup>20</sup> or if this policy be assigned before a

<sup>20</sup> This provision, though apparently clear and plain, has frequently been before the courts. As applying to conditions existing at the time the policy was issued the court said in *Hoose v. Prescott Ins. Co.*, 11 L. R. A. 340, "Now the object sought to be accomplished by the person applying for insurance was to obtain indemnity against loss by fire of her interest in the building. If the insurance company who made out this policy upon the verbal application to its agent had desired to know what interest it was insuring, it should have stated it in that part of the policy pertaining to the risk. It was the intention of these parties to issue a valid and binding contract of insurance, valid and binding from the time of acceptance of the same by the assured, not that after it had been accepted by the assured then the assured should apply to the company and obtain its consent in writing indorsed on the policy, stating that the assured was the sole and unconditional owner of the property, or, stating that the building intended to be insured stood on ground owned in fee simple by the assured, or stating by indorsement on the policy the interest which the assured had in the property covered by the insurance, and yet the language of this part of the policy is that the entire policy, and every part thereof, shall become void—that is, void in the future, unless such consent in writing is endorsed by the company thereon. To give any reasonable force and effect to this clause of the policy, it can

loss; or if illuminating gas or vapor be generated in the described building (or adjacent thereto) for use therein; or if (any usage or custom or trade or manufacture to the contrary notwithstanding) there be kept, used, or allowed on the above described premises benzine, benzole, dynamite, ether, fireworks, gasoline, greek fire, gunpowder exceeding twenty-five pounds in quantity, naphtha, nitroglycerine, or other explosives, phosphorus, or petroleum, or any of its products of greater inflammability than kerosene oil of the United States standard (which last may be used for lights and kept for sale according to law, but in quantities not exceeding five barrels, provided it be drawn and lamps filled by daylight or at a distance not less than ten feet from artificial light); or if a building herein described, whether intended for occupancy by owner or tenant, be or become vacant or unoccupied and so remain for ten days."

This portion of the policy should be carefully studied by policyholders that they may know just what may be done with permission and also to understand that without permission these acts render the policy void. As these matters are covered by indorsements upon the policy, they will be discussed more at length when treating of forms, or riders as they are sometimes termed, of the policy. Suffice it to say that there are numerous things which may be done provided the company is notified and permission is asked. The reason for this is that each of these acts has a tendency to increase the hazard. As the property was insured upon the basis of a given and determined hazard, if the hazard is to be increased the company has the privilege of saying whether it desires to continue the insurance by granting the permission, charging an increased premium, or to cancel the policy and get off the risk. In effect, the most of these permissible things will be granted without question, but they must be asked for or they will void the policy.

The following list, given in lines 39 to 44 inclusive, are items concerning which there might be some doubt as to their being covered by a general policy: "Nor, unless liability is specifically assumed hereon, for loss to awnings, bullion, casts, curiosities, drawings, dies, implements, jewels, manuscripts, medals, models, patterns, pic-

only be held to apply to such changes as arise after the policy has been delivered and accepted in the ownership of the property, or, if a building stood upon leased ground, the ownership of the building; and it does not apply to an existing state or condition of the property at the time the policy was issued."

tures, scientific apparatus, signs, store or office furniture or fixtures, sculpture, tools, or property held on storage or for repairs; nor beyond the actual value destroyed by fire, for loss occasioned by ordinance or law regulating construction or repair of buildings, or by interruption of business, manufacturing processes, or otherwise; nor for any greater proportion of the value of plate glass, frescoes and decorations than that which this policy shall bear to the whole insurance on the building described." In order to have these items covered, they must be specifically described in the policy.<sup>21</sup> These lines explain why certain things are set forth specifically in form.

The protection of the interest of a mortgagee or of any person or corporation having an interest in the subject of insurance through the interest of the insured, is set forth in the following provision, which forms lines 56 to 59 of the standard policy: "If, with the consent of this company, an interest under this policy shall exist in favor of a mortgagee or of any person or corporation having an interest in the subject of insurance other than the interest of the insured, as described herein, the conditions hereinbefore contained shall apply in the manner expressed in such provisions and conditions of insurance relating to such interest as shall be written upon, attached, or appended hereto." This protection is provided through a mortgage clause written in, or usually attached to, the policy. The permission is granted to the outside party to describe his interest in detail, and after it is described the company is bound to follow the directions of the indorsement in the settlement of a loss.

It not infrequently occurs that a fire is caused by the neglect of some person or corporation having no direct interest in the property insured. The holder of the policy desires to secure his indemnity rather than to have a law suit, so it is provided in the policy that the company may pay the loss and be subrogated to all of the policyholder's rights. The provision is as follows, which forms lines 102 to 105 of the policy: "If this company shall claim that the fire was caused by the act or neglect of any person or corporation, private or municipal, this company shall, on payment of the loss, be subrogated to the extent of such payment to all right of recovery by

<sup>21</sup> This section imposes care in the description of the property insured, as if an article is not specifically mentioned, there is doubt as to whether it is covered. It pays to be particular in stating just what articles belonging to this class are intended to be insured. In *Thurston v. Union Ins. Co. et al.*, 17 Fed. 127, it was held that store fixtures did not include partitions, doors and windows, or elevator machinery, gas pipes, or speaking tubes.

the insured for the loss resulting therefrom, and such right shall be assigned to this company by the insured on receiving such payment." Not infrequently this subrogation is of much value in cases where property is burned from sparks from a locomotive. It is also of much value to the insured in the matter of securing the prompt payment of the loss.<sup>22</sup>

### *Co-operations.*

The last set of provisions of the policy are what are termed co-operations. The first of these is to be found in the last part of line 2, and reads as follows: "Said ascertainment or estimate shall be made by the insured and this company, or, if they differ, then by appraisers, as hereinafter provided."<sup>23</sup> Both parties to the contract work in co-operation here. This is another of the provisions of the contract which have been subject to much judicial investigation.

Another co-operation deals with the cancellation of the policy. The provision covering this is to be found in lines 51 to 55: "This policy shall be canceled at any time at the request of the insured; or by the company by giving five days' notice of such cancellation. If this policy shall be canceled as hereinbefore provided or become void or cease, the premium having been actually paid, the unearned

<sup>22</sup> Touching the matter of subrogation, Ostrander, P. 36 remarks, "When insured property has been damaged by the wrongful act of another, and the loss is paid by the underwriter, the right of subrogation is now so well settled and so generally understood that it will need hardly to be stated." Also *Hewet v. Nourse*, 54 Me. 256: "He must use reasonable care and prudence to prevent its spreading and doing injury to the property of others. The time of burning may be suitable, and the manner prudent, and yet, if he be guilty of negligence in taking care of it, and it spreads, and does injury to the property of others in consequence, he is liable for any damage for the injury done."

<sup>23</sup> The question of most practical interest in this phase of the contract is that which deals with the appraisal of the damage in cases where the insured and the company do not agree. Appraisals and appraisers have been the cause of much litigation and have also prevented much litigation. There are so many phases of this question and so many questions which may arise that it is impossible to cite cases setting forth anything like a fair presentation of the case law, so it will not be attempted. One case will be cited as showing what an appraiser should be. The case is that of *Bradshaw v. Agricultural Ins. Co.*, 137 N. Y. 137, in which the court said: "While it may be true that in the appointment of these appraisers each party nominates some one who may be supposed to be friendly to the side nominating him, yet he should at the same time be disinterested; or, in other words, fair and unprejudiced. The duties of these appraisers are to give a just and fair award—one which shall fairly and honestly represent the real loss actually sustained by reason of the fire; and it is not the duty of either appraiser to see how far he can depart from that purpose and still obtain the consent or agreement of his associate, or in case of his refusal, then of the umpire. It is proper and to be expected that all the facts which may be favorable to the party nominating him shall be brought out by the appraiser, so that due weight may be given to them; but the appraiser is in no sense for the purpose of an appraisal, the agent of the party nominating him, and he remains at all times under the duty to be fair and unprejudiced, or, in the language of the policy, 'disinterested.'"

portion shall be returned on surrender of this policy or last renewal, this company retaining the customary short rate; except that when this policy is canceled by this company by giving notice it shall retain only the *pro rata* premium."<sup>24</sup> This provision is plain and simple, and yet so far as the five days' notice is concerned it has been often litigated. Two facts should be noted here. If the company cancels the policy, it shall return to the insured the *pro rata* unearned premium. If the insured shall cancel it, the company shall be entitled to a charge, or what is known as a short rate, upon the theory that the company has been to some expense in the matter of the insurance and that therefore it should be compensated in some degree by the determination of the insured to cancel.

Lines 113 to 116 are a sort of co-operative addendum to the balance of the contract: "This policy is made and accepted subject to the foregoing stipulations and conditions, together with such other provisions, agreements or conditions as may be indorsed hereon

<sup>24</sup> The rule in regard to cancellation must be strictly followed. Unless the insured waives his right to five days' notice cancellation does not become effective until after five days have elapsed after the notice is given. As regards the return of the unearned premium the court of appeals of New York has held that the unearned premium need not be returned till the policy is surrendered. The point is quite fully discussed in *Backus et al. v. Exchange Fire Ins. Co.*, 19 N. Y. Supp. 677. As to who shall be served with notice of cancellation there has been considerable difference of opinion, the companies often claiming that service upon the broker who originally placed the insurance is sufficient. The question was before the Supreme Court of the United States in the case of *Grace et al. v. American Central Ins. Co.*, 109 U. S. 278. In this case, relying upon a custom which existed in New York and Brooklyn, the trial court heard evidence of this custom. In reversing the lower court, the Supreme Court said: "At the trial below, evidence was offered by the company and was permitted over the objection of the plaintiffs to go to the jury, to the effect that when this contract was made, there existed in the cities of New York and Brooklyn an established, well-known general custom in fire insurance business, which authorized an insurance company, entitled upon notice to terminate its policy, to give such notice to the broker by or through whom the insurance was procured. This evidence was inadmissible because it contradicted the manifest intention of the parties as indicated by the policy. The objection to its introduction should have been sustained. The contract as we have seen, did not authorize the company to cancel it upon notice merely to the party procuring the insurance—his agency, according to the evidence, not extending beyond the consummation of the contract. The contract, by necessary implication, required notice to be given to the insured, or to some one who was his agent to receive such notice. An express, written contract embodying in clear and positive terms the intention of the parties can not be varied by evidence of usage or custom. In *Barnard v. Kellog*, 10 Wall. 383, this court quotes with approval the language of Lord Lyndhurst in *Blackett v. Royal Exchange Assur. Co.*, 2 Crompt. and Jervis, 209, that 'usage may be admissible to explain what is doubtful. It is never admissible to contradict what is plain.' This rule is based upon the theory that the parties, if aware of any usage or custom relating to the subject matter of their negotiation, have so expressed their intention as to make the contract out of the operation of any rules established by mere usage or custom. Whatever apparent conflict exists in the adjudged case as to the office of custom or usage in the interpretation of contracts, the established doctrine of this court is as we have stated. *Partridge v. Ins. Co.*, 15 *ib.* 573; *Robinson v. U. S.*, 13 *ib.* 365; *The Delaware*, 14 *ib.* 603; *Nat. Bank v. Burkhardt*, 100 *ib.* 692."



or added hereto, and no officer, agent, or other representative of this company shall have power to waive any provision or condition of this policy except such as by the terms of this policy may be the subject of agreement indorsed hereon or added hereto, and as to such provisions and conditions no officer, agent, or representative shall have such power or be deemed or held to have waived such provisions or conditions unless such waiver, if any, shall be written upon or attached hereto, nor shall any privilege or permission affecting the insurance under this policy exist or be claimed by the insured unless so written or attached." One of the important matters in this connection is that the contract may not be changed by oral representations. They conform with the requirements that everything tending to vary the policy in any way shall be in writing and attached to the policy and brought to the knowledge of the company.<sup>25</sup>

### *Special Clauses.*

There now remains, so far as the policy is concerned, the consideration of the clauses which may be attached to the policy and which in general come under the head of the permissions of the contract. These are of much importance, and will be considered under the head of special clauses.

The standard policy provides, under the permissive portion, that

<sup>25</sup> Probably no provision of the standard policy has resulted in more judicial construction than this closing section with its statement as to waiver of any of the provisions of the contract. There are three times when waiver comes most to the front as follows: when the policy is issued, when the policy is in force and the insured desires some modification of the policy, and when a loss has occurred. These waiver cases arise mostly from the acts or omissions of the agent. There are two varieties of waivers: First, by a written endorsement attached to the policy, and second, oral waiver. The weight of the decisions is against the power of an agent to make a binding oral waiver. The leading case on this point is that of *Quinlan v. Providence-Washington Ins. Co.*, 133 N. Y. 356, where it is said: "The limitations upon the authority of Kelsey were written on the face of the policy. It declared that 'no officer, agent or representative' of the company should have power to waive any provision or condition embraced in the printed and authorized policy, but power is given to agents to waive added provisions or conditions, provided such waiver is written upon or attached to the policy. Where a policy permits an agent to exercise a specified authority, but prescribes that the company shall not be bound unless the execution of the power shall be evidenced by a written endorsement on the policy, the condition is of the essence of the authority, and the consent or act of the agent not so endorsed is void." After a loss has occurred it appears that an agent can waive the provisions of the policy in regard to proof of loss, notice, and those things which the insured must do in securing an adjustment unless the company waives its rights. The Wisconsin supreme court held in the case of the *Oshkosh Match Works v. Manchester Assur. Co.*, that as the standard policy of that state is a statute an agent has not power to waive any of its provisions. Generally, if a company or its agent knows anything which would void the policy, and permits the policy to continue, the forfeiture will be considered waived.

various portions of the policy may be modified by special written agreements with the insured, called indorsements, which are sometimes termed riders. The permissive portions of the policy are binding, as they read, in the absence of any agreement between the company and the insured reduced to writing and attached to the policy. Among the clauses which may be changed are the prohibitive clauses in lines 11 to 30; the excepted articles in lines 30 to 44; those relating to mortgage interests, lines 56 to 59; and the application of the proceeds of the policy, lines 98 and 99. The policy provides that as to the creditor's interest, the contract shall apply as may be expressed in the written clause referring thereto.

Let us consider these clauses somewhat in detail, as they are especially important in securing an understanding of the scope and limitations of the contract. In the first place, let us consider the mortgage clause, provided for in lines 56 to 59: "If, with the consent of this company, an interest under this policy shall exist in favor of a mortgagee or of any person or corporation having an interest in the subject of insurance other than the interest of the insured as described herein, the conditions hereinbefore contained shall apply in the manner expressed in such provisions and conditions of insurance relating to such interest as shall be written upon, attached, or appended hereto."

It is often the case that real property which is covered by insurance is also encumbered by a mortgage. Now, an insurance policy runs to the owner, and without some special indorsement the mortgagee is not protected so far as the insurance is concerned. Without an indorsement the insurance would go to the owner and the mortgagee's only indemnity would be his right of recovery from the owner. In order to facilitate the borrowing of money, it became necessary for the property owner to give the mortgagee an interest in the insurance. This is done by attaching to the policy what is known as the mortgagee clause. This clause provides that the loss or damage, if any, under the policy shall be payable to the mortgagee or trustee, as his interest may appear, and it furthermore provides that the insurance as to the interest of the mortgagee and trustee only therein shall not be invalidated by any act or neglect of the mortgagor or owner of the within described property;<sup>28</sup>

<sup>28</sup> The attachment of the standard mortgage clause creates an individual contract with the mortgagee, which cannot be held invalid because of any act or neglect of the mortgagor whether

nor by any foreclosure or other proceeding or notice of sale relating to the property; nor by the occupation of the premises for purposes more hazardous than are permitted by this policy, provided that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagor or trustee shall, on demand, pay the same. It is further provided that the mortgagee or trustee shall notify the company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee, and, unless permitted by the terms of the policy, it shall be noted thereon and the mortgagee shall, on demand, pay the premium for such increased hazard for the term of the use thereof. The failure to do this voids the policy. This clause does not waive the right of the company to cancel the policy so far as the owner is concerned, but in any such case the mortgagee shall be protected for ten days after notice, after which the right of cancellation shall exist against the mortgagee. This clause also provides that the company when it pays any loss to the mortgagee shall be subrogated to the rights of the mortgagee to the extent of the funds paid under the security as held as collateral to the mortgage debt.<sup>27</sup> Or, if the company shall chose to pay the entire mortgage indebtedness, it shall receive assignment of the mortgage. This pretty well protects the interest of the mortgagee and also the interest of the company. There is sometimes a variation made in the mortgagee clause in regard to contribution. This contribution clause provides that in case of any other insurance, the company shall not be liable for any greater proportion than the sum insured by the policy bears to the total amount of insurance issued or held by any parties having an insurable interest therein. The mortgagee clause is one of the most common of policy indorsements, and one which owners of property and lenders of money should be thoroughly familiar with.

The question of other insurance on the property is always of

committed before or after the issuance of the policy. See *Hastings v. Westchester Fire Ins. Co.*, 73 N. Y. 141; *Mutual Fire Ins. Co., v. Alvord*, 61 Fed. 752; 2 Am. Law Register & Review (August, 1895), 510.

<sup>27</sup> Where the company pays the amount of the loss to the mortgagee it is entitled to be subrogated to the rights of the mortgagee to the extent of the payment made on account of the loss. *Allen v. Watertown Fire Ins. Co.*, 132 Mass. 480; *Ulster County Sav. Inst. v. Decker et al.*, 74 N. Y. 604. Unless the policy is absolutely forfeited as to the mortgagor, the company is not entitled to assignment of mortgage on payment of the loss to the mortgagee upon mere claim of forfeiture as to the mortgagor. *Traders Ins. Co. v. Race*, 142 Ill. 338.

considerable moment where there is a likelihood of there being additional insurance. The company is always entitled to know the amount of insurance on the property, and this is provided for in the following statement in lines 12 and 13: The policy "shall be void if the insured now has or shall hereafter make or procure any other contract of insurance, whether valid or not, on property covered in whole or part by this policy." This clause is in line with the one providing for contribution in cases of partial loss, in that the provision runs against insurance whether valid or not. Under its terms it is necessary where any additional insurance is desired to have permission to secure the same indorsed on the policy. Quite frequently the amount of additional insurance which may be permitted is specified in the indorsement.<sup>28</sup>

The next permission is that with reference to operating a manufacturing establishment outside of regular hours, or of shutting it down altogether. The clause providing for this reads as follows: "If the subject of insurance be a manufacturing establishment and it be operated in whole or part at not later than ten o'clock, or if it cease to be operated for more than ten consecutive days." This provision is reasonable, for it has to do with the right of the company to know whether the hazard is being increased or not, and, unlike some of the other permissive clauses, its operation can be prevented by waiver or estoppel.<sup>29</sup>

<sup>28</sup> Since there is some conflict among the decisions as to the necessity for having endorsement of other insurance on the policy, it is wise to have an express permit endorsed on the policy. The usual form reads, "\$..... concurrent insurance permitted." In the case of the *New Jersey Rubber Co. v. Commercial Union Assurance Co.*, 13 Ins. Dig 102, the court said of concurrent insurance that it was that "which to any extent, insures the same interest against the same casualty, at the same time as the primary interest, on such terms that the insurers would bear proportionally the loss happening within the provisions of both policies. It is this last quality, of sharing proportionally in the loss, that distinguishes concurrent insurance from mere double insurance. The permission of concurrent insurance, in contrast with the requirements, gives the insured an option as to the time when he will procure other insurance, the length of its duration, and the property it shall cover, provided it shall proportionally aid the primary insurer in bearing whatever loss may occur within the range of their common operation." It was held by the supreme court of Connecticut in *Cutler v. Royal Ins. Co.*, 70 Conn. 566, that the co-insurance clause does not obviate the requirement for written consent for other insurance.

<sup>29</sup> The question of what is meant by the ceasing to operate, is of large practical importance. It involves the rules of waiver and estoppel, so if prior knowledge on the part of the agent can be shown it will operate as a waiver. The supreme court of Michigan in the case of *City Planing and Shingle Mill Co. v. Merchants, etc., Mut. Fire Ins. Co.*, 72 Mich. 654, said: "The stoppage of the mill was occasioned solely by the want of logs to manufacture. The logs were expected daily, and their not being received was not the fault of the plaintiff. It was mere temporary suspension, which in the first place, was supposed would only last a few days, and that from day to day. This clause cannot mean that a stoppage of this kind for a day, or even a week,

Following this is the provision in regard to increasing the hazard. It reads: "Or, if the hazard be increased by any means within the control or knowledge of the insured." Many cases arise in which this clause comes into operation, and it is important that the company be notified of any such increase in hazard.<sup>30</sup> Akin to this, and really a part of the same general provision, is the following

for want of running material, an event quite likely to occur once or more in any season, would be considered 'ceasing to operate.' The policy speaks of premises becoming vacant or unoccupied 'or if a mill or manufactory, it shall cease to be operated.' This must mean a closing with the intention of ceasing operation, not a shutting down for a few days or weeks because of the happening of events, incident to the conducting of a mill in that locality, which might be reasonably expected, such as want of logs because of low water, which caused the suspension in this case." The whole question is well discussed in *American Fire Ins. Co. v. Brighton Cotton Mfg. Co.*, 125 Ill. 131. "What is the meaning of the words 'cease to be operated,' as used in the policy? The operation of a large manufacturing establishment means doing everything necessary for its successful and profitable management. It would necessarily be the work of many hands, and the operation would be multiplied many fold. The duties of the many employees would be quite dissimilar, and entirely independent of each other, but all necessary to either the profitable or successful operation of the factory. It would be the duty of some to buy the raw material to be manufactured, of others to run the engines, to drive the spindles, of others to control and manage the carding and spinning, of others to put up and label the goods for the market, of others to make sales and take orders for goods as fast as manufactured, of others to deliver or ship goods when sold, and of others to perform such duties as may be necessary to be done, and which it would be needless to enumerate. The ceasing to perform any one thing, for the time being of the many required to be done, would certainly not be to 'cease to operate the factory.' Any one might be temporarily suspended, and yet the factory be said to be in successful operation. 'Carding and spinning' is not all that is included in a 'cotton factory.' There must be the engine to drive the machinery, and fuel to make steam. The goods, when manufactured, must be sold and shipped or delivered, and the doing of any one of these many things is a part, and even an essential part, of the operation of a large factory. Nor is the ceasing to do any one of them for a shorter or longer period ceasing to operate the factory. 'Carding or spinning' is no more all of the operation of a great factory than the sale of the fabrics when produced. Many, very many, things are included in the operations of a factory, the doing of which is necessary to its successful management. The operating of an extensive factory does not mean it shall be kept employed in all its various departments every day; that is, all the time. It would be unreasonable to construe the contract in this policy that it means the factory in all its departments shall be kept in ceaseless motion. No one supposes it means that. It may properly be closed down over Sundays and all legal holidays, or for any cause that a prudent manager of such establishments would deem prudent and best for the interest of the owners. On the same principle, one department may be kept in operation, and others cease temporarily. It might be, the fabrics manufactured might be in excess of the sales or the demands of trade, and for that reason a prudent superintendent might deem it best to stop the spindles and the looms for a season, or sales might be in excess of the supplies, and for that reason no goods would be contracted for a time. Would any one say that such partial stoppage would be a violation of the contract of insurance contained in the policy in suit? So narrow a construction would make the contract of no value to the assured, and to observe it would render the usual and ordinary management of such an establishment impracticable."

<sup>30</sup> The courts have construed the words "increase the risk" as meaning a material increase of risk. Some such increases are given herewith. Erecting a frame addition and putting in it a fireplace and stove. *Roberts v. Chenango Co. Mut. Fire Ins. Co.*, 3 Hill (N. Y.) 501. Putting in a large stove for drying naphtha which had been heretofore dried by steam. *Daniels v. Equitable Ins. Co.*, 50 Conn. 50. Using engine for shelling. *Davis v. Western Home Ins. Co.*, 81 Iowa, 496. Building additional house on lot so as to eliminate clear space. *Pottsville Ins. Co. v. Horan*, 89 Pa. 438.

clause: "If mechanics be employed in building, altering or repairing within the described premises for more than fifteen days at any one time."<sup>31</sup>

The next fact which the company must know and which, if it be not properly stated, will void the policy, is that of ownership. The statement is very plain and simple: "If the interest of the insured be other than unconditional and sole ownership."

Much litigation has resulted from this provision. The tendency of the courts has been to stretch this provision so that the company will be held and the insured be protected.<sup>32</sup> Cases are numerous involving this point, and the summation of them is that the insured should set forth his interest in the property so that there can be no mistake about it. The next two provisions are of the same general character, though applying to different facts. The first one provides that the building must be on ground owned by the insured in fee simple.<sup>33</sup> Next, if with the knowledge of the insured, foreclosure proceedings shall be commenced.<sup>34</sup> The next two pro-

<sup>31</sup> The practical working out of this provision is well described in *German Ins. Co. et al. v. Hearne*, 117 Fed. 280. In this case it was held that the assured had violated the fifteen day provision and that the policy was forfeited. The court said, "The companies said to the insured: In order that there may be no room for question in the future concerning the character of the work that may be done upon the insured premises, we agree that you may do whatever you please to the building, whether the change would be accurately described as building, or as altering, or as repairing, without asking our consent and without being obliged to consider whether or not the risk is thereby increased, and you may do this for fifteen days. But if the work you do is so extensive that it requires more than fifteen days to finish it, then we require you to give us notice, in order that we may take such steps as we may then see fit. We shall then have knowledge of what you are doing, and we can then decide whether it may go on, or whether it is so dangerous as to require us to cancel the policy altogether, or to demand that the increase of hazard shall be compensated by an increase of premium."

<sup>32</sup> Many questions have arisen under this clause. Some of the cases which hold what is sufficient ownership are as follows: Entering into possession under contract of purchase where a portion of the purchase price has been paid with an undertaking to pay the balance. *Bottom v. Iowa Central Ins. Co.*, 25 Ia. 328. Two persons owning in severalty shares of personal property insured each as absolute owner. *Veebe v. Ohio Farmers Ins. Co.*, 18 L. R. A. 481 (Mich). Existence of a mortgage on the property does not affect sole and unconditional ownership. *Clay Fire Ins. Co. v. Beck*, 43 Md. 358. Insufficient ownership was held in the following cases: The partnership is not the sole and unconditional owner where the buildings are owned by one partner. *Citizens Fire Ins. Co. v. Doll*, 35 Md. 89. Where the insured is in possession under a verbal gift and promise to convey and he has paid taxes and made improvements. *Wineland v. Security Ins. Co.*, 53 Md. 276. A surviving partner who is administrator even where he has paid firm debts out of his own means and is entitled to be reimbursed out of the property. *Crescent Ins. Co. v. Camp*, 71 Tex. 503. The owner of an undivided interest. *Miller v. Amazon Ins. Co.*, 43 Mich. 463.

<sup>33</sup> This clause has been construed along with that of sole and unconditional ownership. A definition of a fee simple may not be out of place. "It is an estate of inheritance, unlimited in duration. The owner has full power of disposal of it during his life, and on his death, if undisposed of, it goes to his heirs." See *Bouvier's Law Dictionary*.

<sup>34</sup> Notice of the existence of a chattel mortgage must be given and it must be correctly stated as to amount or the policy will be avoided. *Crikelier v. Citizens Ins. Co.*, 168 Ill. 309;

visions have to do with the change of title or possession of the property and the policy. The only changes which are permitted without indorsement are the death of the insured and change of occupants without increase of hazard. All other changes must be indorsed.<sup>35</sup> As the fire insurance policy is a personal contract, if it be assigned without notice before a loss occurs it will be void.<sup>36</sup>

The next provision of this portion of the policy has to do with the generation of illuminating gas and the keeping or using or allowing to be used on the premises certain highly inflammable substances, which include benzine, benzole, dynamite, ether, fireworks, gasoline, greek fire, gunpowder exceeding twenty-five pounds in quantity, naphtha, nitro-glycerine, or other explosives, phosphorus, or petroleum, or any of its products of greater inflammability than kerosene oil of the United States standard, kept for lights and for sale, according to law, but in quantities not exceeding five barrels.<sup>37</sup> It is generally recognized that these substances are dangerous to have or be used in or about a building, and for this reason the company ought to have, and does have, the right to require that their use shall be subject to special permission. This for two reasons: first, that the company may know when the hazard is increased; and, second, that it may have the right to stipulate as to how the inflammable substances shall be handled. Of the same general character as this is the gasoline permit which may be attached to a

*Wicke v. Iowa State Ins. Co.*, 90 Ia. 4; *Smith v. Agricultural Ins. Co.*, 118 N. Y. 518; *Gray v. Guardian Assurance Co.*, 31 N. Y. Supp. 237. A mere change in the incumbrance or renewal where amount is not increased will not avoid the policy. *Johansen v. Home Fire Ins. Co.*, 54 Neb. 548.

<sup>35</sup> There is some conflict among the authorities upon this clause, so it may be as well to give some of the cases which hold what is a voidable change. Possession by sheriff under execution. *St. Paul F. & M. Ins. Co. v. Archibald*, 16 Ins. Law Journal, 153. Execution of mortgage with power of sale. *Sessamun v. Pamlico Ins. Co.*, 78 N. C. 145. Transfer of equitable title to property. *Cottingham v. Firemen's Fund Ins. Co.*, 20 Ins. L. J. 187. These changes have been held not to avoid the policy. Appointment of a receiver. *Keeney v. Home Ins. Co.*, 71 N. Y. 396. Invalid sale of property. *Kitterlin v. Milwaukee Ins. Co.*, 134 Ill. 674. Letting building to tenants. *Alkan v. New Hampshire Ins. Co.*, 53 Wis. 136.

<sup>36</sup> If the company consents to the assignment of the policy before a loss has occurred it is sufficient. *Gould v. Dwelling House Ins. Co.*, 134 Pa. 570. An assignment made but not delivered because of lack of approval of the company does not affect the rights of the insured. *Smith v. Monmouth Mut. Fire Ins. Co.*, 50 Me. 96. An assignment of all of an insured's property for the benefit of his creditor voids his fire insurance. *Dube v. Mascoma Mut. Fire Ins. Co.*, 64 N. H. 527.

<sup>37</sup> The presence of prohibited articles kept on the premises without the knowledge of the assured is within the prohibition. *Gunther v. Liverpool and London and Globe Ins. Co.*, 166 U. S. 110. In all cases the permits for the use or carrying on the premises of the articles included in this section of the policy should be drawn with great care, for the tendency of the courts is to strict construction as a study of the cases will reveal.

policy, which provides that in consideration of an extra premium permission is given for the use of gasoline stoves. This permit provides that the reservoir shall be filled by daylight only and when the stove is not in use. It also provides that no artificial light be permitted in the room when the reservoir is being filled, and that no gasoline, except that contained in the reservoir, shall be kept within the building, and not more than five gallons, in a tight and entirely closed metallic can, free from leak, on the premises adjacent thereto. The permit usually bears a caution which sets forth the danger of handling gasoline and the explosive character of the vapor caused by the union of gasoline with the air.

The last of this first section of permissions comes under the following clause: "Or, if the building herein described, whether intended for occupancy by owner or tenant, be or become vacant or unoccupied and so remain for ten days."<sup>38</sup> This question of vacancy permits has had considerable discussion during the past year on account of a case tried before Judge Beitler, of Philadelphia. It appeared, according to the evidence, that the property was vacant for a longer period than the policy provided for, and that it was again occupied, and during the second occupancy that it burned. The court held that the policy was voided by reason of the violation of the conditions and that the reoccupancy did not restore the policy, in harmony with that doctrine that a voided instrument cannot be made alive again except through a new contract in which both parties participate. There was an abundance of foolish talk in connection with this, and many assumed that the provision was a surprise to property owners, and that their rights thereby were unduly exposed to hazard. This vacancy condition in the policy has been a part of the standard policy from the time it was first drafted. It will be noticed that it says that these permissive clauses shall void the policy in the absence of an agreement to the contrary indorsed hereon, and all those who desire to have their property vacant for a longer period than that provided for in the policy have to do is to apply to the insurance company for a vacancy permit. These

<sup>38</sup> Additional cases bearing on this question are *Herman v. Adriatic Ins. Co.*, 85 N. Y. 162; *Halpin v. Phenix Ins. Co.*, 118 N. Y. 165. In *American Ins. Co. v. Padfield*, 78 Ill., 167, it was said by the court where the insured had left a few things in the house, "The presence of these articles in the house did not constitute an occupancy, nor do they relieve the house from the charge of being vacant, either in the popular or in the legal and technical sense of that word." In *Cook v. Continental Ins. Co.*, 70 Mo. 610, it was declared "it was the plaintiff's business under the policy to see that the house was occupied."



vacancy permits are of two kinds. First, there is the plain vacancy permit which provides that the building may remain vacant during any change of tenant not exceeding sixty consecutive days. Second, there is a permit providing that the property may remain vacant or unoccupied during a certain specified time, but in consideration of the increased hazard by reason of such vacancy, one-third of the insurance shall remain as suspended and be of no effect during the vacancy. Either of these permits will be granted upon application. In some cities the vacancy clause is incorporated in the following form: "Privilege to have other insurance, to make additions, alterations and repairs, this insurance to cover in the same, to keep a small quantity of benzine, to use electric current, to use oil of legal standard for lighting, cooking, and heating, and for the building to remain vacant or unoccupied." If the policy does not carry this provision, it is because the holder has not asked for it. From this it will be seen that the purpose of the company is to make it as easy as possible for the insured to keep his policy in force.

Another of the indorsements placed upon the policy in certain cases is what is known as the reduced rate average clause, or, as it is more popularly known, the co-insurance clause. Let us see, in the first place, what co-insurance means. The prefix co means together or in conjunction with. Therefore, co-insurance means to insure with or together or in conjunction with the company. In other words, under certain conditions, the property owner is a co-insurer with the company for a certain proportion of the loss. Now, rates of insurance are affected by two factors, namely, ignitability, or the inherent probability of the fire within the property itself; second, destructibility, or the facility with which it is damageable by fire. These two factors are very important in determining the rate which shall be charged. Take two properties similar in all respects so that equal rates should apply to each. Let us assume that each of these properties is worth \$20,000. One of these properties belongs to A, who carries \$10,000 of insurance. The other belongs to B, who carries \$16,000 of insurance. The element of destructibility, so far as the insurance company is concerned, becomes much greater to A's building in case of partial loss than it does to B's. Let us illustrate: A loss occurs, damaging each property to the extent of \$10,000. A's loss to the insurance company (he having insurance to the amount of \$10,000) is total. B's loss

to the insurance company is  $62\frac{1}{2}$  per cent. Now it is clearly apparent that from the standpoint of the company A should pay more for his insurance than B, because in case of a 50 per cent. loss the company stands to lose  $12\frac{1}{2}$  per cent. more as proportioned to the premium than it does in the case of B. Now, the assumption is that B is entitled to a lower rate than A. In order for A to obtain the same rate that B does, he should carry \$6,000 more of insurance than he is carrying. If he chooses to carry only \$10,000, which is his perfect right, then the reduced rate average clause, or the co-insurance clause as it is commonly known, provides that for the insurance which he does not carry he shall be a co-insurer with the company. He saves in the amount of his premium by carrying the smaller amount of insurance, but the amount which he does not carry contributes in the settlement of a loss. Continuing the same illustration, A becomes a co-insurer with the insurance company to the extent of \$6,000 of insurance. Hence, he would bear that proportion of the loss, or  $62\frac{1}{2}$  per cent. of \$6,000, or \$3,750, so that the amount that he would receive in the adjustment of the loss would be \$6,250 instead of \$10,000. There is considerable misapprehension concerning this co-insurance clause. The amount of insurance which a man shall carry in order not to have the co-insurance clause apply has, by a sort of common consent, been placed at 80 per cent. The 80 per cent. does not apply to what a man may recover, simply he must carry eighty per cent of the value in order that he may receive full payment in case of loss. Take the case of B. It is provided that he shall carry 80 per cent. Suppose he carries \$17,000 of insurance, which is in excess of 80 per cent. In case of a loss amounting to that amount he would receive \$17,000. In case he carries \$16,000 and sustains a loss of \$15,000 he receives \$15,000. The 80 per cent. not applying to determine what he shall receive when he carries 80 per cent. of the value.

Now, let us examine this subject from just a little different point of view, the really sensible point of view. These two men, A and B, have property valued at \$20,000. Each one desires, of course, to get his insurance at the lowest possible cost. If B carries 80 per cent. of value in insurance, he will receive the lowest rate. If A only carries 50 per cent. of value, in order to prevent his becoming a co-insurer he is penalized by a higher rate, so that he will not secure his insurance for less than the other man. As a large pro-

portion of losses are partial losses, this question of co-insurance, or of higher rates for lower amounts of insurance, becomes of very practical moment. It rests with the property owner under this view of the case as to whether he shall pay the minimum rate or the maximum rate. If he chooses to carry the lower amount of insurance, he either becomes a co-insurer or else pays enough higher rate to offset the lower premium. Not infrequently, policies are issued in which, in consideration of the lower rate, the insured agrees not to make any claim for a loss amounting to less than a certain sum. Within the past year some insurance has been written in Philadelphia where the property owner agreed to make no claim for a loss amounting to less than one million dollars. By making this concession he secured a low rate, because the chances of his having a million dollar loss are very much less than the chances of his having a \$100,000 loss. In this case he did not care to pay the ordinary rate, which was high, because his risk was a hazardous one. He did wish to be protected in case of a conflagration. So he agreed to bear himself all the small losses in order that he might be protected in case of total destruction of his property. He might have \$4,000,000 of insurance and, if his building was burned down, he would receive the full amount of his insurance. If, on the other hand, he sustained a loss of only \$500,000 he would bear it himself, believing that he could afford to sustain a small loss for the purpose of having himself protected in the case of a large loss.

There is still another clause to be considered, known as the distribution average clause. This clause provides that the amount of insurance shall attach in each of two or more locations, according to the value in each. For illustration, a merchant may have merchandise in three locations. In the store where it is to be sold, in the warehouse, where he keeps his surplus stock, and in the depot of the railroad or steamship line by which he receives it. His stock is constantly shifting. One day two-thirds of it may be in the store, on another day one-half of it may be in the warehouse, and on some days he may not have any in the freight depot. When the policy is written with the distribution average clause the policy automatically divides itself as the stock is divided from day to day. When one-third is in the warehouse one-third of the insurance will apply there. If one-half is in the freight depot and none is in the warehouse, no insurance will apply to the warehouse and one-half to the

freight depot and the balance to the store. This policy would also apply to manufacturing hazards where part of the goods are in the factory, part of them are in the warehouse and part of them at the depots. It is of very great value to the merchant and manufacturer because with his property being passed from one place to another, it is almost impossible to write a specific policy which would at all times cover the value which might be in any particular location. So the distribution average clause was devised, and it works very satisfactorily.

In addition to the distribution average clause, there is another provision of the same general character, styled a floating policy. The floating policy covers one division of property located at various locations. Policies are specific when they cover on one kind of property or at any one definite location. General policies cover several kinds of property under different items at one location. It is also provided that policies must be concurrent. This is, they must agree exactly as to their wording and to the kind of property insured.

These are the principal permissive and regulative clauses which are attached to fire insurance policies. Each modifies and explains the application of some portion of the policy. It is not advisable to incorporate them in the policy, because the standard policy is applied to all conditions and circumstances, and therefore must be general in its wording. While the framework of all policies should be the same, and is the same under the standard form, yet conditions are continually arising which require modifications, and these modifications are secured through these various clauses which we have described. Only the principal clauses have been explained. Other clauses arise from time to time which are applied as the occasion demands, but being somewhat infrequent in their use, this lecture is too brief to take them up in detail. The outline presented has described the fire insurance contract as it applies to manufacturing and merchandising with a view of discussing those features which the business man needs to understand as the owner of property.

## FIRE INSURANCE—RATES AND SCHEDULE RATING

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Before discussing the question of schedules and schedule rating, it is necessary to have a clear conception of what in the insurance nomenclature is understood by the term "rate." Briefly, a rate is the amount charged for insuring \$100 of property for one year. The premium is the amount paid for insuring the property, and the sum insured is known as the amount of the policy.

$$\text{Therefore } \frac{\text{amount of policy} \times \text{rate}}{100} = \text{premium.}$$

For commercial reasons insurance is often desired for a less or greater term than one year. In the former case it is customary to charge the short rate of the annual rate, and in the latter case a multiple of the annual rate. For example, the annual rate being 1 per cent. for one month, two-tenths of the annual rate is charged; for two months, three-tenths, etc. For terms in excess of one year it is customary to charge 75 per cent. of the annual rate for each additional year. So that a two-year policy, the annual rate being 1 per cent., is written at a rate of 1.75; a three-year policy at 2.50; a four-year policy at 3.25, and a five-year policy at 4.

It will be interesting to note that in Philadelphia, the home of the first fire insurance company organized in this country, a system of perpetual insurance is still in use. The perpetual rate of a risk is the rate per cent. which, multiplied by the amount of the policy, will produce a premium, the interest from which produces a sum sufficient to pay the annual premium. It follows that so long as the deposit remains with the insuring company, the insurance will continue in force, inasmuch as the interest on the deposit pays the annual premium. To convert an annual rate into a perpetual rate, the

annual rate is multiplied by a constant figure, based of necessity on the money interest rate obtainable. At the present time the perpetual rate is computed to be twelve times the annual rate.

Rates should be sufficient to produce an income large enough to provide for the payment of losses, plus the necessary expenses of the insuring company, plus a reasonable profit for the stockholders. The classification of losses is, therefore, necessary for a proper consideration of the rate. The experience derived from the classification of losses of one company cannot be taken as satisfactory, and combined classification is the logical result. In this, the combining of experiences in loss classification, we have the first step toward the organization of rating bureaus.

It is impossible in the brief space allotted to me to give a complete resumé of the history of rate making. I will, therefore, confine myself to the history of the development of the association I am connected with, the Philadelphia Fire Underwriters' Association, believing that in the development of that organization all of the various advancements in scientific rate making can be clearly traced. The "Philadelphia Board of Fire Underwriters" was organized in April, 1852. Its object was to classify and rate temporary (not perpetual) risks. Companies issuing perpetual policies did not assist in the organization. Rates were made and promulgated on the basis of the difference in fire hazard, as determined by the general experience of the companies, which were members of the organization. In time the list of "Classes of Hazard and Rates of Premium for Insurance Against Loss or Damage by Fire in the City and County of Philadelphia" was promulgated. While this list could not have been expected to be a marvel in conception and results, it was the beginning of rate making on a sound fundamental principle, which has been maintained up to the present day. Briefly, the rate of the building was based on construction, material of construction, use of building or occupancy, location, height and depth. The rate of contents was graded as to whether the "goods" were equal to the building; as to the building hazard with the combustible hazard of goods added; or as affecting the building risk. It is interesting here to note that nearly fifty years later these three grades under the terms "susceptibility," "ignitibility" and "combustibility" were given the same consideration by the framers of the universal mercantile schedule, which will be discussed later on. Stores and warehouse

buildings were graded by classes, a first-class building being one constructed of brick or stone or iron with a tile, slate or metal roof, cornice of brick, stone or metal, fire walls extending above the roof, and iron shutters front and rear.

The second-class building deviated from this in one particular, the third-class building in more than one particular, and the fourth-class building being of frame construction. We also find that, in addition to the basis rate for the class, additional charges were made for height, depth, skylights and communications. Location, charges for inaccessibility to fire apparatus, and congestion of values, as well as exposure to hazardous risks, were also considered. All these deficiencies are found worthy of consideration in the most advanced rating schedule of to-day. Congested or conflagration districts were also given consideration and penalized by flat advances. Merchandise or "goods" were then classified as not hazardous, hazardous and extra hazardous, and a sum named for each class, which, added to the building rate, gave the rate for insurance of the merchandise, so that here also the principle of discrimination between the susceptibility to damage between building and contents was clearly indicated. Non-hazardous, hazardous and extra hazardous goods were subdivided into about 150 classes, with rates varying from ten to forty cents to be added to the building rate. Specially hazardous risks comprising the various manufactories were rated by classes, with distinction as to whether steam, water or hand power was used, and also as to whether the building containing the risk be constructed of brick or stone or wood; the rate charges to be added to the building rate (which we will consider later as "occupancy charges"), varied from fifty cents to six dollars.

In 1857 the Philadelphia Board of Fire Underwriters published a booklet containing practically unchanged the charges and classifications above cited, together with a list of minimum premiums in three columns, the first column to be charged in addition to the building rate, the second column being the full premium in a brick or stone building, and the third column being the full premium in wooden buildings, it being stipulated that merchandize in wooden buildings could be insured at the building rate, and that certain articles with a star prefix did not affect the rate of the building or of other articles in the building. An examination of these three columns, shows that the second, where the rate applies to buildings and

contents, consists of such risks as are at present classed under the general term "special hazard." A special charge of ten cents for "camphene or burning fluid," or any similar inflammable liquid, "if used for lighting or kept for sale by the assured," is the only deficiency charge other than those enumerated. Ten years later the booklet was republished, containing, in addition to the charges and rates in the booklet of 1857, rates on specific risks by name. The table of minimum premiums contained more items, and provision was made for insurance for more than one year and for short periods.

In 1872 a tariff of rates of premiums for insurance, adopted by the "Association of Fire Underwriters of Philadelphia," was published. The tariff showed a decided advance in the methods of rating. Fire doors to communications are recognized, and charges for their absence provided; charges for additional tenants are fixed, and the rates for longer terms than one year are placed at two and one-half rates for three years, four rates for five years and five rates for seven years. The list of specially rated risks is largely increased, and the list of minimum rates is made to apply to third-class buildings, with a deduction for first- and second-class buildings of ten and five cents, respectively. A reduction in the rate of the building from the contents rate is also provided. The rate book published in 1876 shows a still further advance in discriminating charges and a large addition to the list of specially rated risks. It is also noted that "improvements" will affect the rate, and that "no reduction in the rate shall be made for promised improvements."

The present Philadelphia Fire Underwriters' Association was organized in November, 1883. The objects of the association are set forth in the constitution and by-laws as follows:

The object of this association shall be the reduction of the fire waste of the city of Philadelphia, the establishment of just and fair rates, limited and perpetual, whereby the cost of fire insurance may be equitably distributed among all classes of manufacturers, merchants, private householders and others. For these purposes this association will establish a system of schedule and minimum ratings, giving the best risks the lowest rates, and adding specific charges for all deficiencies from required standards, making reductions from such rates when the deficiencies charged for are eliminated, and also provides rules and plans for regulating the practices of the business of fire underwriting in the city of Philadelphia.



Continuing on the methods outlined, rates on special risks were promulgated under the direction of rating committees for some time. The necessity of better and more complete methods of rating was now becoming more and more apparent, and the formulation of schedules of different classes of manufacturing risks was the result. The schedule at first gave consideration to the main physical hazards—such as the question of picker in or outside of the main mill, location of boiler and disposal of shavings in woodworking risks, location and arrangement of drying, etc. Subsequently, the construction and arrangement of the building in regard to the hazard of the occupancy and the protectional and preventive features were studied, until at length a rating schedule, such as is at present in use throughout the country in one form or other, was adopted.

A schedule for rating a risk of a certain class consists of a description of a standard risk of such class, giving due consideration to the construction, protection and physical conditions and hazards of the class, and of a table of charges for deficiencies or deviations from the standard. A standard woodworking risk, for instance, would be rated at 4 per cent., this figure being called the "basis rate." To this basis rate deficiency charges are added, as per the schedule, for deviation from the standard, the total sum resulting being the rate charged for insuring the specific risk. As an example, the schedule for rating a saw and planing mill provides that a standard mill shall be constructed of brick or stone, not over four stories or three stories and basement in height; not over 7,000 square feet in area; the roof of metal, slate or approved composition; cornice of brick, stone or metal; wall of the thickness required by the building laws; floors of three-inch plank, tongued and grooved, or splined with one-and-a-quarter-inch flooring boards on top, and no openings in the floor; ceiling not boarded or plastered and without concealed spaces; stairways and elevators in a separate brick or stone stairway, or elevator house with standard fire doors at each landing; driving belt in a separate belt race, with no belt holes in the floors; heating by steam pipes suspended on metal clear of all woodwork; lighting by gas or incandescent light; boilers in a separate brick or stone boiler house; communications to the main mill, if any, to be protected by standard fire doors; stack of brick; shavings to be taken up from various machines as soon as made, by suction fan, and conveyed through metal conduit pipes to a fireproof brick shav-

ing house securely cut off from the boiler house or main mill by standard fire doors; shaving house to be of ample size to store all surplus shavings made on the premises, and to be provided with a cyclone dust collector; steam jet to be placed in the shaving vault, with valve in the boiler room; drying to be done by steam in a brick dry house securely cut off from other buildings by standard fire doors; painting, oiling, varnishing and upholstering not to be done in the building; benzine not to be used in the building; watchman to be used at night, with an approved clock, and to make hourly rounds, nights, Sundays and holidays; fire protection to consist of approved standpipe, with hydrant and hose on every floor as required; standpipe to be supplied by elevated tank, steam pump or city water if pressure is sufficient; buckets and casks to number at least one cask and six buckets for each 2,500 square feet floor area; single occupancy required.

A mill conforming in all respects to the above would be considered a standard saw and planing mill, and such property would be insured at the basis rate, with a further reduction for automatic sprinklers. If on surveying a specific mill it is found that conditions deviating from this standard exist, deviation charges would be made as provided in the schedule, item for item, and the sum of these charges, together with the basis rate, is the rate at which the specific mill can be insured. The owner of the mill, being furnished with a list of the deviation charges, can, if he is so disposed, make the necessary changes, and very often at an expense not at all excessive; when results are considered he can very materially reduce his rate. In a like manner schedules are prepared for the many varying classes of manufacturing risks, necessitating in every case a careful study of the process of manufacture, so that the physical hazard of each process can be studied and the proper safeguards suggested.

While primarily the schedule must be considered the means of measuring a risk and of producing a rate commensurable with the hazard of the specific risk, the value of the schedule and of schedule rating, as a means of improving risks from a fire prevention viewpoint, and thereby diminishing the possibility of loss of life and property by fire, cannot be overestimated. The study of fire prevention has in the last few years developed greatly, due largely to the general adoption of the principle of schedule rating by the various rating organizations throughout the country. A large number

of examples of the value of schedule rating resulting in improvement of property can be cited, but I will confine myself to citing a few examples, where a specific class of factories, which at one time were a constant source of loss to the insuring companies even at high rates, was made profitable at a low rate by reason of judicious schedule rating. For years the shoe factories in the New England States, by reason of frequent fires, caused serious loss to the insuring companies. Flat advances of rates had no effect. At last a committee of the rating organizations having jurisdiction was given charge of the matter. This committee very wisely took up the question directly with the manufacturers, and by studying with them the various hazards of their business, as well as the various defects in construction of the buildings, in methods of management and in fire protection, by a rating of the various risks by schedule, brought out the deviation from the standard previously prepared.

The result was that in a short time the various properties were so changed that they are now profitable risks to insure at a fraction of their previous rate. Similar action, having like results, was had in the case of the rubber factories, a class of hazardous risks which for years proved unprofitable to the insuring companies, and which after judicious handling by a special committee and by co-operation with the manufacturers were so much improved that as a class they have become profitable risks to carry at a much lower rate. The above examples were cited at length in an address delivered by Mr. U. C. Crosby before the fourth annual convention of the National Fire Protection Association. Mr. Crosby, speaking as an underwriter, said: "Profit is made in eliminating the causes of fires, increasing facilities for extinguishing the same, and not in advancing rates." This is an axiom which has been accepted by practically all rating organizations throughout the United States.

To a student of schedule rating, who in pursuance of his studies examines schedules for rating a certain class of risks prepared in different sections of this country, one thing will be very apparent. While the standard of the class of risk will be practically the same, a great diversity in the value placed on various deficiencies will be noted. It stands to reason that the presence of a picker in the main mill, or of the boiler in the saw mill, should not be considered a greater hazard in one part of this country than in another. Nevertheless, we may find that the charges for these deviations may be

twice as much in one location as in another. This apparent distinction is difficult to explain. I am rather of the opinion, however, that the reason of the different charges is that in each district the framer of the schedule endeavored to bring out results not varying from the condition of rates existing prior to the application of the schedule. Rates vary in different sections of the country and in different cities, due to the general loss ratio of the locality. That this should be so will be apparent when it is remembered that the rate should be sufficient to produce an income to take care of losses and expenses, and provide for a reasonable dividend for the stockholders.

Having discussed the general question of rate schedules and schedule rating, it is now my intention to take up what has been well termed the "universal mercantile schedule." The history of the development of the "universal mercantile schedule" is interesting, and marks an epoch in the development of the science of schedule rating. Recognizing the desirability of a uniform system of rating mercantile risks in different sections of the country on a like basis, the committee to whom the question of framing such a schedule was referred selected co-operating committees representing underwriters' associations engaged in rate making. In addition to the co-operation of these committees, the parent committee also enlisted the help and co-operation of underwriters who were known to have given special attention to the question of schedule rating. To these copies of the schedule were sent, with the request to criticise the work of the committee freely. The work of the committee continued for a period of several years. In the history and analysis of the "universal mercantile schedule," the chairman of the committee, Mr. F. C. Moore, when submitting the final report of the committee, said:

Schedule rating is a specific, accurate measure from the viewpoint of advantage or disadvantage, by a scale of insurance rates or prices, for every feature of a building and its contents, of construction, occupancy, fire resisting or extinguishing provisions, and also of its environment or surroundings, involving in the latter consideration such features as the liability of the city in which the building is located to conflagrations; the width and grade of its streets; its previous fire records; its police and fire departments, and, in fact, every consideration which an ideal underwriter supposedly possessed of the knowledge and experience combined of all engaged in the business would take into account in fixing a rate.

The scope and intent of the universal mercantile schedule is here laid down: "The rate of a standard building in a standard city,

located anywhere, should be the same." Briefly, the universal mercantile schedule considers the following points: (1) A standard city is described. It involves level and wide streets, gravity water works, adequate pipe service and all other features of fire department, police supervision, building laws, and laws and ordinances for handling explosives and chemicals. (2) A standard building is described, said building being a model of construction and embodying all modern safe construction and protection features. (3) A basis rate or key rate for such a building, which is arbitrarily fixed at twenty-five cents. To this are added certain charges for deviation of the city from the standard city as to water works, inaccessible or narrow streets, deficient fire apparatus and fire department, ineffective building laws, etc. The result—the key rate of the city is then used to determine the rate of any building in the city by adding in turn to the key rate the deficiency charges for constructional deviation from the standard.

After deducting from the result thus obtained the various allowances for superior construction and protection, or for other features tending to reduce the possibility of fire occurring, or to prevent its spreading, the result is the unoccupied building standing alone; that is to say, not exposed to any other building. Charges for exposure having been added in accordance with the hazard, the final result is the unoccupied building, exposed. To obtain the rate of the occupied building a sum representing the combustibility of the contents or manufacturing hazard is added. We now have the rate of the occupied exposed building. For the rate of the contents we add to this rate a sum representing the ignitibility and susceptibility of the contents. Charges for faults in management or housekeeping, added to the above rates, complete the final rate of the unoccupied building and contents.

The magnitude of the committee's work is apparent when it is considered that there are some 2,000 items in the occupancy table and some 2,500 in the table of susceptibilities. While it may be true that the charges for occupancy and susceptibility are in a measure arbitrary, the combined loss experience of a large number of companies was studied in their preparation, and the result can be accepted as approximately correct. In order that the schedule be not too long, instead of considering every recognized point of excellency in construction, protection and condition, percentage deduc-

tions for conditions better than those provided in the schedule were arranged so that the careful student of the schedule would be able to give consideration to the very best conditions known and recognized. The Universal Mercantile Schedule, either in its entirety, or modified to meet local conditions, is now in use in a very large part of the United States, and has demonstrated its great value as an educational factor, conclusively. In his able treatise entitled "Fire Rating as a Science," Mr. A. F. Dean discusses the relation of the schedule to classification, and points out the value of combined classification for correct schedule rating methods, in a clear and concise manner. While Mr. Dean contends that the Universal Mercantile Schedule has not solved the problem of correct fire rates, those familiar with the application of this schedule are satisfied that it is a great step toward the desired end.

The Universal Mercantile Schedule, and in fact all schedules, would produce erroneous results if the percentage of insurance to value of insured property were not considered. As an example, a property valued at \$10,000, rated at 1 per cent., would pay \$100 premium if fully insured, and only \$50 premium if insured for half its value. In case of a fire destroying 50 per cent. of the value in the former case, the insuring companies would pay \$5,000, or 50 per cent., of the sum insured. In the latter case, the insuring companies would pay \$5,000, or a total loss under their policies. As a basis of equitable rating, a percentage of insurance to value must be agreed upon. This percentage has been fixed at 80 per cent. A clause on the policy noting this fact is called the "coinsurance" or "average clause." One of the provisions of the clause is that the assured in event of a loss becomes coinsurer for the deficiency between the amount insured and 80 per cent. of the value of the property, or, in other words, stands his share of the loss with the insuring companies in proportion as the amount insured bears to 80 per cent. of the value of the property. The clause in question in use in this city reads as follows:

*Reduced Rate Average Clause.*—In consideration of the reduced rate at which this policy is written, it is expressly stipulated and made a condition of this contract that this company shall be liable for no greater proportion of any loss than the amount hereby insured bears to — per cent. of the actual cash value of the property described herein at the time when such loss shall happen, nor for more than the proportion which this policy bears

to the total insurance thereon; provided, however, that if the aggregate claim for any loss shall not exceed 5 per cent. of such actual cash value, no special inventory or appraisalment of the undamaged property shall be required.

If this policy be divided into two or more items, the foregoing conditions shall apply to each item separately; and if two or more buildings or their contents be included in a single item, the application of the provision as to special inventory or appraisalment shall be limited to each building and its contents.

As an example of the application of this clause, let us assume that the value of a property is \$10,000 and the sum insured is \$8,000, or 80 per cent. of the value. In event of a loss the insuring companies pay the entire loss not exceeding the amount of the policy; if there is but \$5,000 insurance, the value being \$10,000, in event of a loss of \$5,000 the insuring companies would pay five-eighths of the loss, or \$3,125, and the assured would pay three-eighths of the loss, \$1,875. The coinsurance or average clause is inoperative when the insurance carried is equal to or exceeds the sum required to be insured, or when the loss equals or exceeds the per cent. of value required to be carried under the clause, or when the property is entirely destroyed. As stated, the rate obtained by application of the schedule is based on the fact that 80 per cent. of the value of the property is insured. Should the owner elect to insure less than 80 per cent. of the value he can do so at an advance in the rate, or if he elects to insure for the full value of his property he can do so at a reduced rate.

For the proper application of schedules to different risks, and for the promulgation of rates to the various insurance companies, rating organizations or boards are necessary. While primarily these boards were organized for rating purposes only their scope has been so enlarged that they have become technical bureaus where architects and builders or owners of properties can obtain all information as to improved construction and protection of their property against loss by fire. The examination and criticism of architects' plans and specifications, the preparation of plans for sprinkler installation and other fire protection, and the suggesting of safe electric installations, are but a few of the duties such boards are called upon to perform. The study of municipal laws and ordinances controlling the construction of buildings, the safekeeping and using of chemical explosives and combustibles, and the suggesting of better-

ments in the laws and ordinances must also be considered among the duties of the rating board. The study of the conflagration hazard of the city and the safeguarding against such conflagration hazard are of the greatest importance, and must of necessity be taken up by the rating board.

Experience has taught, and facts confirm, that improvements in fire hazard of a building, or of the city, can be obtained through schedule charges, for the defects, in the rate of insurance when the individual risk is under consideration, and by general advances to all rates when the city is under consideration. A slip for inefficient fire defence or water supply, and a slip for conflagration hazards attached to policies (each slip stating that for deficiency in the one and for hazard in the other a fixed charge over and above the rate is added to the premium) bring the defects so forcibly to the attention of the property owners that their co-operation is at once enlisted to bring about the desired result.

In discussing the varying charges for the same defects in schedules in use in different sections of the country, and suggesting the reasons for such variation, I did not call attention to the difficulty encountered when schedule rating was being developed, due to the great diversity in the requirement for construction and protectional features. The necessity of uniformity in requirements soon became apparent. To that end, some nine years ago, representatives of various rating boards were invited to a meeting in New York City to discuss rules for installation of automatic sprinklers, and for the formulation of uniform rules applicable to all parts of the country. This meeting resulted in the organization of the "National Fire Protection Association." This association of rating boards, meeting annually, formulates standards and requirements for various constructional and protectional features. These, being promulgated by the National Board of Fire Underwriters, became the recognized uniform standards for use throughout the country. Expressly disclaiming any desire to even consider the question of rates, the work of the National Fire Protection Association has taken up through special committees the question of preparing standards for various classes of manufacturing risks, so that uniformity in standards of classes may result. The study of varying processes of manufacture, and changing hazards of the same, and especially the safeguarding of hazards from heating and lighting, has been intrusted to



a committee of consulting engineers. This committee gives special attention to the formulation of rules for safe installation of apparatus for lighting and heating, and for the construction and control of such apparatus. For the furtherance of the work above outlined the National Board of Fire Underwriters maintains an underwriters' laboratory, where tests of materials and devices designed for better construction and protection of property are made. The laboratory also examines and tests apparatus and devices, which may be considered as increasing the fire hazard, listing such as may be permitted under restrictions formulated by the committee.

In preparing this paper on rate making it was my desire to call attention in a general way to the great amount of detail work and investigation necessary to produce even approximately correct ratings. Also, to give a general idea of the methods of preparing schedules, and of the technical work carried on to that end. I have endeavored to convey the thought that schedule rating as at present practiced by the various rating organizations is a public benefit, tending toward the reduction of the annual fire waste and to the prevention of loss of life and property by fire. The value and necessity of combinations of insurance companies for the exchange of experience and for the enforcement of improvement in building construction, and in the safeguarding of hazards by means of schedule rating, should appeal to all.

## FIRE PREVENTION

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The subject of fire prevention will be here treated as it applies to conditions in the United States, and from the viewpoint of those, who through practicable means seek to reduce the present enormous fire waste. The problem, as it exists in this country, must be appreciated. We do not possess Old World conditions, where buildings are comparatively small in area, low, generally of solid masonry construction, with small window openings, and frequently separated by wide avenues and parks. Our towns, with few exceptions, have been built hurriedly and cheaply, using vast quantities of wood in floor and roof construction, if not in walls, this material being the most available and least expensive. Consideration has been given only to the needs of the present and immediate future. Speaking generally of city districts, intelligent treatment of the individual risk as regards construction and fire extinguishment has been given only in occasional, yet important, instances, and the conflagration hazard has not been provided against. Where municipal building regulations exist they have been poorly drawn in respect to fire prevention, and sometimes peculiarly observed. It is apparent the desire for better things must be stronger in the hearts of those most interested before any radical reform takes place.

The time has arrived, however, when in many large cities the property owner feels the need of greater security against fire, and complains under the burden of the insurance tax which, although heavy, is claimed to be inadequate, so far as central city districts are concerned. Engineers with the insurance companies are now studying these conditions in detail, and, with the combined interest of all pointing toward intelligent improvement, the present generation may hope to see a change for the better.

"Fire prevention," broadly regarded, suggests three general lines of effort, each one of which demands the detailed and prolonged study of those intending to qualify as fire protection engineers or fire insurance underwriters:

(1) Preventing the origin of fires; (2) controlling fires where they occur; (3) preventing the spread of fires from "risk" to "risk." This includes the following up to best advantage and restriction of such a spreading fire once it is under way. By a "risk" we refer to a property manifestly all subject to one fire, as a building and its contents.

A consideration of these three features points to a further subdivision as follows:

1. Causes which originate fires: Incendiarism, common hazards and special hazards.

2. The individual "risk" at which the fire originates: Planning, construction, occupancies, fire extinguishing facilities, fire notification facilities, maintenance of such facilities, inspections and salvages.

3. Exposure and conflagration possibilities from grouped risks, due to fire extending from one building to others in view of the following causes: (a) Fire in the individual risk passing beyond control; (b) effect of the size of the risk, viz., the quantity of the combustible comprising the building and contents subject to burning at one time; (c) fire extending out through wall openings and through roofs; (d) fire entering through wall openings and through roofs; (e) fire spreading, due to the falling of burning floors and contents; (f) fire spreading, due to the falling walls of a burning building; (g) influence of street widths and open areas; (h) influence of prevailing winds; (i) the "range" of or territory affected by heat waves and fire brands; (j) adverse conditions of the weather or of the fire facilities at the time of fire.

Such consideration as can be given this very large subject will consist in running through the topics above outlined and briefly commenting on each.

### *Incendiarism.*

This is frequently the cause of a fire. First, we have the "direct moral hazard," where a property is fired by the owner for gain. Second, the "indirect moral hazard," where the owner may not be

prospering or permanently located, and has little or no incentive for safeguarding hazards, keeping premises in repair and maintaining fire appliances, thus allowing the physical hazard to become abnormally high. Third, the outside "incendiary" who daily causes much fire waste, as the demented "firebug," the tramp, and the small boy who likes to see the fire department turn out.

The elimination of these hazards is impossible. Their restriction, however, can be somewhat brought about by the engineer in safeguarding fire extinguishing and fire notification systems against malicious tampering; by the fire insurance companies through a continuation and extension of their examination of the assured's prosperity and past records; and by the community in providing strict laws and penalties, and enforcing them through an honest fire marshal's department.

Occasionally a theorist advances in public print a suggestion that incendiarism is engendered by overinsurance, and could be entirely remedied by the insurance companies insuring for, let us say, not exceeding three-quarters of the value. The record of fire losses has clearly shown that moral hazard is frequently found among assured of means and of high social standing or with excellent mercantile ratings. It is manifest, insurance companies do not extend indemnity where they realize a moral hazard exists. To offer insurance only to the extent of three-quarters of the value would be a great hardship upon the man, fortunately in the vast majority, who does not wish a fire, and would, in event of total loss, bankrupt many property owners of limited means.

The American public is not prepared for state or national laws thus limiting the amount of indemnity that can be collected to a percentage of the amount of loss. The insurance companies would doubtless entertain such a proposition from an assured at any time he might see fit to make it, and it is clear could issue policies on many properties at a reduced rate with such a provision made therein.

#### *Common Hazards.*

These are fire causes common to most risks, the chief of which are here noted:

*Heating and Lighting.*—These subjects are most carefully specified and described in the underwriter's requirements, and involve

the consideration of chimneys, stacks, flues, trimmer arches, fireplaces, stoves, furnaces, boilers, heaters, grates, steam and hot water pipes, fuel and fuel storage, ashes, sparks and oil stoves.

Consideration of the lighting hazard involves knowledge of the rules, regulations and experiences in relation to the providing of artificial illumination by means of electricity, gas, oil, gasoline, acetylene, candles and torches, both fixed and portable equipments.

*Housekeeping.*—Carelessness in respect to the above causes perhaps the greatest number of fires. Miscellaneous refuse, commonly swept up on the floor constitutes an unknown, complex hazard. Often materials are contained therein which, when packed into a receptacle, are likely to ignite spontaneously within a few hours. Cleanliness is conducive to low fire cost.

Lightning, matches, tobacco smoking and fireworks complete our list of the most important common hazards.

### *Special Hazards.*

These are hazards peculiar to different occupancies, and as a rule associated with some process of manufacturing, although they are conspicuous in certain other classes, as, for instance, theatres and hotels.

The underwriters, guided by their fire experiences of many years, have listed these hazards as they obtain in each class of occupancy, stating how they should be located, protected and minimized. This branch of our work is of itself quite sufficient to furnish a lifetime occupation. The chief of these special hazards appear in some one of the following six groups: (1) Artificial heating, as driers and ovens; (2) spontaneous ignition; (3) explosions of dust, chemicals or vapors; (4) textile stock preparing; (5) boiling over or ignition of inflammable compounds, fats and similar substances, and (6) friction at shafting and machinery.

### *Planning a Building.*

Too little attention is given this subject from a fire prevention viewpoint. Care must be taken to isolate or best provide for the special hazards and occupancies; to obtain light and air without creating exposure or draught conditions; to make such reasonable subdivision of the risk into several fire areas as is compatible with

the occupancy; to arrange communication from floor to floor for passengers and freight, and yet make provision against a fire seeking the same avenues; to locate elevators and stairs at margins of rooms rather than at inaccessible situations; to consider available fire protection when planning the height or the depth of a building; to make suitable provision for the weights of fire service tanks, the location and accessibility of pumps and boilers; and the elimination of light wells, also of windows in angle walls which would allow fire communication.

### *Construction.*

There are four general classes under this heading: Fireproof, semi-fireproof, slow burning and ordinary. Specifications in numerous items exist in relation to each, not only for the construction of buildings, standard in their class, but also for the partial improvement of sub-standard conditions.

Fireproof buildings are those of steel cage construction, with all of the metal structural members safely insulated against heat from within or without the building, or they are of reinforced concrete construction with the reinforcing members similarly insulated. It is important that such buildings have all stairs, elevators and other communications between floors safely encased in fireproof cut-off shafts, and that all nearby horizontal tiers of windows be fitted with wire glass in fireproof frames. Otherwise, a fire in any one story of such a building—forced by the floor construction to burn out through the windows—may communicate on the outside of the building to the stories above through similarly situated windows.

A fireproof building should in reality prove itself a perfect stove, allowing its contents to burn out with a minimum of damage to the building. Many structures bearing the name "fireproof" fall far short of this. The early examples, as might be expected, contained many inadequate features, due to lack of appreciation of the problem involved; yet to-day just as poor structures are being erected, because the local building laws do not prevent, because they cost less, and because the owner and architect have not heeded the already well-developed fire experiences in this class. It is strange the way the public clings to its belief that things non-flammable are

fireproof, and somehow takes it for granted that a fireproof building will lend this quality to its contents.

In alluding to this subject one cannot well refrain from citing the lessons of the recent Baltimore conflagration, where the insurance loss on the fireproof buildings was in almost the same ratio as on the ordinary buildings and combustible stock, this being due, primarily, to the large damage done such buildings, and, in the second place, to the shortage of insurance to value on this class. Of the fireproof buildings involved in the Baltimore conflagration seven were so-called "skyscrapers," and of steel cage tile construction. Sixty-four per cent. of the value of these buildings was destroyed by the fire. In this connection it should be borne in mind that these seven buildings were of office occupancy, and did not contain certain amounts of combustibles which should cause a prolonged interior fire. As a matter of fact conflagrations swept in and out of some of these buildings in less than one-half an hour. Many experts studying these results believe that had the structures been crowded with combustible stocks—as with mercantile and manufacturing occupancies, which would have caused an intense internal fire for hours—the structures would have been even more seriously damaged, even to the extent of collapse and total destruction. In the conflagration these buildings were without any form of fire protection, as the public department could not have approached them had they desired, due to the burning of surrounding properties. On the other hand, it is fair to remark that at least a number of these buildings contributing to the 64 per cent. damage average were of inferior quality, and by no means represented the excellence of construction which is to-day employed quite freely by those who are willing to pay the price.

The National Board of Fire Underwriters' Committee on the Baltimore conflagration has tabulated the following in relation to the chief fire proof buildings, involved, showing the following distribution of building value: Foundations, 6 per cent.; steel frame, 14 per cent.; mason work, 30 per cent.; equipment, 20 per cent., and trim and finish, 30 per cent. In addition the general expenses attending the fire equalled 5 per cent. of the total value. These include miscellaneous items, architects' fees, permits, surveys, insurance and cleaning out *débris* after the fire.

It is manifest that the trim and finish must be all subject to loss

or damage by fire, although the percentage of value therein to the total sound value of the building can be wisely reduced in many new structures from 30 per cent. to, let us say, 20 per cent., subject to fire damage.

The equipment is not likely to all be subject to loss; in fact in the statistics from which we are quoting but 62 per cent. of the 20 per cent. of sound value found in the equipment item was a loss. We will estimate that in a model building the value of the equipment subject to loss can be figured at 10 per cent.

Fifty-three per cent. of the mason work on these Baltimore "fireproofs" was lost through the fire, that is to say, 53 per cent. of 30 per cent. of the total sound value. Perhaps in a model building this could be reduced to 10 per cent.

From this we learn that there is at least 40 per cent. of the value of a well constructed fireproof type building which cannot, in any event, be considered as exempt from fire loss.

Semi-fireproof buildings are constructed with non-flammable material, but with structural or tension metal members, either entirely exposed or not properly insulated against heat. Sometimes metal lathing and plaster covering are used to conceal the metal. These buildings are occasionally erected because they are cheaper than the above type, and yet comply with the prevailing building code, or because they are for dwelling house, office or similar occupancy, where the assumption is that the amount of combustible within the building is not sufficient to generate heat enough to impair the metal portions of the structure.

Slow burning buildings, sometimes called "mill construction," have floors without openings, built of plank laid on wide spaced heavy timbers. No metal is allowed in this type of construction. The plank flooring must in no case be less than three inches in thickness, and there must be a tight top flooring, with waterproof paper between. Absolutely no openings must be built or cut through these floors. The planking is laid on timbers spaced from five to twelve feet apart, which in turn rest on stout wooden posts of prescribed dimensions.

The idea of this type of construction is to have each story separated from other stories by a tight barrier of considerable thickness, the ceilings presenting smooth surfaces of plank and timber, with as few edges and angles as feasible. It requires several hours



under ordinary conditions to burn through a mill constructed floor, even when the rooms contain large quantities of combustible stock, as in textile mills. Ordinary buildings have wood joist board covered floors and roofs as distinct features.

Under "construction," altogether the most important feature to provide against, is the vertical opening; that is to say, an opening through floors for stairs, elevators or for other purposes. All such should be strictly tabooed in all types of construction, and their objects served by communication only through fireproof shafts, with approved fire protecting coverings at necessary story openings.

*Fire Doors, Shutters and Wire Glass Windows.*

This subject has received extended treatment, and even to-day is not in a finally satisfactory shape, yet the underwriters' doors can be depended upon to keep out nearly all fires when placed on both sides of the wall and fully closed.

The type of door and shutter now most in use is of wood covered with specially lock jointed tin plates, and fitted throughout with special hardware. In a fire the wood carbonizes slowly, and the gas therefrom escapes through the lock joints of tin, without accumulating a pressure and throwing off the sheets. In severe fires the wood is all burned out and the charcoal falls to the bottom of the tin covering, but the latter holds together as a barrier at the wall opening, except where it may have been to some extent bent away from the margins of the opening, but the protection of this sheet of metal, plus the less severely damaged door on the other side of the opening, is sufficient to prevent the passage of the fire.

The rapid development of wire glass and frames to hold it promises to revolutionize window protection. Such windows are always in place, and, unlike shutters, do not constitute an additional care, for the nightly closing of shutters serves no purpose except that of fire protection. Again, shutters, particularly the tin clad wooden pattern, disintegrate under the influence of the weather, and at best require considerable expense in the way of paint and repairs. On the other hand wire glass radiates heat, and, when subjected to the heat of a severe exposing fire, combustible goods at the rear of the glass may become ignited, and in this respect the glass is inferior to a well designed shutter, once the latter is closed and properly fastened.

*Occupancies.*

Isolation of hazards has been referred to under "Construction." In addition to this the relative location of processes is of importance. As an example, in full process knitting mills the card rooms—in which fires most frequently occur—have often been located immediately above the finishing rooms, in which exists a large accumulation of finished goods. Under these conditions every time a fire occurred in the card room a water damage of vastly larger proportions resulted in the finishing room beneath. For the economical operation of the plant it was not necessary that the card room should be over the finishing room.

Attention should be given to the placing of stock on skids, so as to be above the floor and thereby avoid needless water damage, and to keeping stock in cases or "flat" as much as possible, opening up no more than necessary. Large hollow piles of combustible stock are particularly to be avoided, as it is practically impossible to put out a fire spreading within such piles. Needless draping of combustible merchandise about elevators and stair shafts, from counters to ceiling and in light wells, frequently occurs. In many of the department stores holiday displays—such as a cotton wad snow storm throughout an entire light well—have been fearful and wonderful sights. Frequently, through lack of thought, a store-keeper or manufacturer will bring some excessive hazard into his business not necessary thereto, as a stock of fireworks in a drug store, dynamite in a hardware stock or several barrels of benzine in a factory where only a few quarts are needed daily, and the remainder should be stored at a safe distance. The uses of rooms and buildings, that is to say, their occupancies, are legion, and each—at least theoretically—of relatively different fire cost importance.

*Fire Extinguishing Facilities.*

We understand a substance to be "burning" when its temperature has been raised to or above the ignition point of the substance, and provided sufficient oxygen is present to support the combustion. Inflammable substances are those having a low ignition point. The burning of such substances raises the temperature of similar adjoining substances so that they in turn burn, thus extending the fire.

In fires which concern us the oxygen in a required amount is supplied from the air combining with the inflammable materials at their respective ignition points. Chemical action results; heat and the fire with which we have to contend are produced; also gases, which burn and constitute flame; and smoke, consisting of particles of the substances which, partly consumed, are carried away by the currents of hot air. To extinguish a fire we must, therefore, either reduce the temperature of the burning substance below its ignition point or exclude from it the air. The fire protection engineer is concerned with the most practical method of accomplishing this end.

From the time of Hero, who, about 150 B. C., describes the construction of a two cylinder fire pump, up to the present day, water has constituted the only extinguishing means of any importance, and bids fair to so remain for an indefinite period in the future. Nothing more efficacious than the syringe "squirt," water pail pump and hand-brake fire engine were developed and put in practice until the middle of the nineteenth century. Chemical extinguishers of little value were used in the eighteenth century; while the portable hand pump, draughting from a trough of water, was in use in Germany, England and elsewhere during the middle and latter part of the eighteenth century. The first steam fire engine was used in London in 1829, and in the United States in 1853. Flexible leather fire hose was made in Amsterdam in 1672. A Philadelphia manufacturer, during 1808, brought out a copper riveted leather hose. During 1720 fire hose of hemp was manufactured in Germany; while rubber fire hose was first introduced in England as late as 1827. The first electric fire alarm system was installed in the city of Boston, Mass., in 1852, although two years previous the Morse telegraph system had been employed for sending fire alarm notices in New York City. In the last fifty years the radically increasing values in large single risks and in congested city districts, and the combustible construction and disregard of sound protection principles have brought about rapid strides in the development of fire extinguishing appliances in this country.

The importance of checking a fire in its early stages can be readily realized. Five minutes' start through unstopped vertical openings may spread the flames to all portions of a building, and such a large quantity of combustible contents and building material may be put on fire at one time as to exceed the ability of the fire

department to cool off the mass faster than the fire spreads to new material. One pound of wood fuel will evaporate about one gallon of water, and a large area of crowded buildings exists in many localities of nearly every city where, if a fire breaks out, the question as to whether a total loss of the one building or a conflagration in the neighborhood results, depends upon a few minutes or seconds difference in the time the water is put on the fire.

Another point to be borne in mind is that with a considerable fire under way it is very hard for the department to get near enough to have their hose streams search out the burning mass; they are often deceived by the smoke and fail to locate the heart of the fire until it is too late. Hose streams directed from the street cannot effectively penetrate the fifth or higher stories of usual buildings or lower stories of very deep structures, and movable water towers as now used by the public departments add but a few stories to the effectiveness of such streams. It is apparent that frequently located fixed metal standpipes must be introduced in order to allow of anything like an effective concentration of public hose streams upon a fire burning in the upper stories of a high building. It is variously estimated that from six-tenths to nine-tenths of the water thus discharged through hose streams is wasted. That occasionally disastrous fires result is not the fault of the fire department but of those who allow conditions to exist which may bring conflagrations to pass at any moment.

#### *Automatic Sprinklers.*

To obtain the desired control of fire the following are needed: (1) A prompt application of water, prompt almost to the extent of being instantaneous with the fire outbreak; (2) the discharge of the water locally precisely at the seat of the fire, and distributed so that the least amount of water will do the greatest amount of good; (3) an immediate notification that the fire is in progress.

These conditions might at first thought be considered quite impossible of fulfillment. This instance is an exception in that the ideal is not only possible but practicable; in fact, an undisputed ability to meet these specifications is well proven.

We find such protection only in the modern sprinkler installation, which operates automatically and immediately upon the out-

break of fire, confines its operations to the very location where the fire is occurring, and gives prompt fire alarm to any point desired through the medium of the sprinkler pipe alarm valve.

Properly installed automatic sprinkler service is altogether the best known and most efficient means of fire fighting. We have had for some twenty years the sensitive automatic sprinkler protection, and yet to-day its possibilities are not realized. This type of protection is destined within a short time to be generally regarded as the apparatus in chief for the extinguishment of fires. It will be generally found in most buildings having combustible construction or contents of from moderate to large values. This branch of fire protection, more than any other, has been the subject of the most careful research, test and specification. It already has a considerable literature available to the student, covering both engineering features and fire loss statistics.

#### *Fire Pails.*

These constitute the simplest, best understood and most used means of fire extinguishment; hence the careful requirements on the subject, which are more extensive than one might assume. Other fire extinguishing apparatus coming under detailed specifications are the following: Public and private water works system, cast iron underground piping, post hydrants, public and private fire department, fire department  $2\frac{1}{2}$  and 3 inch hose,  $2\frac{5}{8}$  inch cotton, rubber lined private outside hose,  $2\frac{1}{2}$  and 1 inch unlined linen hose, play-pipes, spanners, hose houses, carbonic acid gas chemical extinguishers, monitor nozzles, stationary steam fire pumps, rotary and centrifugal pumps, electrically driven pumps, pressure and gravity tanks and cisterns and valves and fittings.

#### *Fire Notification Facilities.*

In the endeavor to bring all available fire facilities into operation as quickly as possible, the public manual electric fire alarm service has been highly developed. Automatic fire alarm systems, extending to all portions of the building, are much in use. An electrical supervisory notification system for the different parts of an automatic sprinkler system is now coming upon the market, whereby too high or too low a temperature or water level or air pressure in a

gravity or pressure tank, the partial closing of a valve or the flow of any water through the system, will immediately give detailed notice at the central station. In addition to the above the old-fashioned inefficient watchman is still employed, and he in turn is watched by a central station or a stationary or portable clock system. We also have the alarm valve on the automatic sprinkler system above mentioned.

#### *Maintenance and Inspection.*

"Improved Risks"—those having a considerable amount of complex devices and apparatus for the notification and extinguishment of fire—require to have such systems maintained at all times. To see that this is done the property owner has an organized system of inspection, which in turn is checked up by the less frequent but more thorough insurance inspections. The inspection of risks, not long since given over to the inexperienced, is now assuming almost the position of a profession. Graduates of technical schools in large numbers are obtaining remunerative employment in this occupation, and the general character of the work is being advanced.

#### *Salvages.*

In event of a fire occurring it is clearly desirable to save as much of the value as possible. To this end sub-division of risks, tight floors, smoke ventilation of buildings, drainage of floors and basements and coverings for stock are provided; in addition to which salvage corps are maintained in most cities, who devote themselves to this work.

#### *Exposure and Conflagration.*

Exposure from an immediately located building represents an entirely different condition from a conflagration district exposure. Conflagrations must, however, be prevented largely through reduction of the immediate exposure hazard.

It was noted above that a large quantity of combustibles in any one risk, if it become afire at one time, may likely exceed the capacity of the public and private fire fighting facilities. Such being the case it is beyond control in the one risk. The fire will then in time, except with a fireproof building, burn out the floors and roofs,

allowing them to fall to the ground, together with such contents as at that time are unburned. This is likely to cause a great wave of heat and a shower of brands to extend to nearby properties which may have been, up to that time, unmenaced. Again, it is likely to tear down the walls of the building, which, if blank, may have constituted an excellent fire barrier, or the walls in falling may topple out and open up exposed risks which have until then withstood the fire.

The wind prevailing at the time of such a fire beyond control, is an important factor, for if the fire communicates to other buildings, and, spreading, becomes a conflagration, the wind will determine to a large degree the direction and hence the extent of the area to be destroyed. In such a conflagration the area immediately in front of its progress for from a few hundred feet to at times several blocks may be rendered untenable by the heat waves, gases and firebrands driven in front of the advancing conflagration. It is at such a time impossible to fight the fire from such a point, in which event resistance must solely depend upon blank walls, fire protecting window coverings, non-flammable roofs, and, to some extent, fire protection at individual risks.

The public department, through a large number of high pressure hose streams, will often be able to surround a fire and prevent its general spread, although it may be beyond control in the building where it originates; or, failing in this endeavor, they may follow on either side of a spreading fire and hem it in, preventing back fires and local subsidiary conflagrations. Adverse conditions which the public department has to meet must, however, be realized, such as unusual snow fall, extreme cold weather in certain sections of the country, or gales of wind; street repairs which prevent access of apparatus or department to hydrants or buildings; water supply system locally impaired, due to drought, repairs or extensions, or carelessly closed gate valves.

It is therefore seen that, to use reasonable precaution against the conflagration hazard, we must—

*First.*—Curtail the size of risks so they cannot contain in any one section an amount of combustible which, if on fire at one time, is likely to place the district beyond control of existing facilities.

*Second.*—Extend over most occupancies the protection of a well designed automatic sprinkler service.

*Third.*—Positively prevent communication from floor to floor of a building except through fireproof shafts.

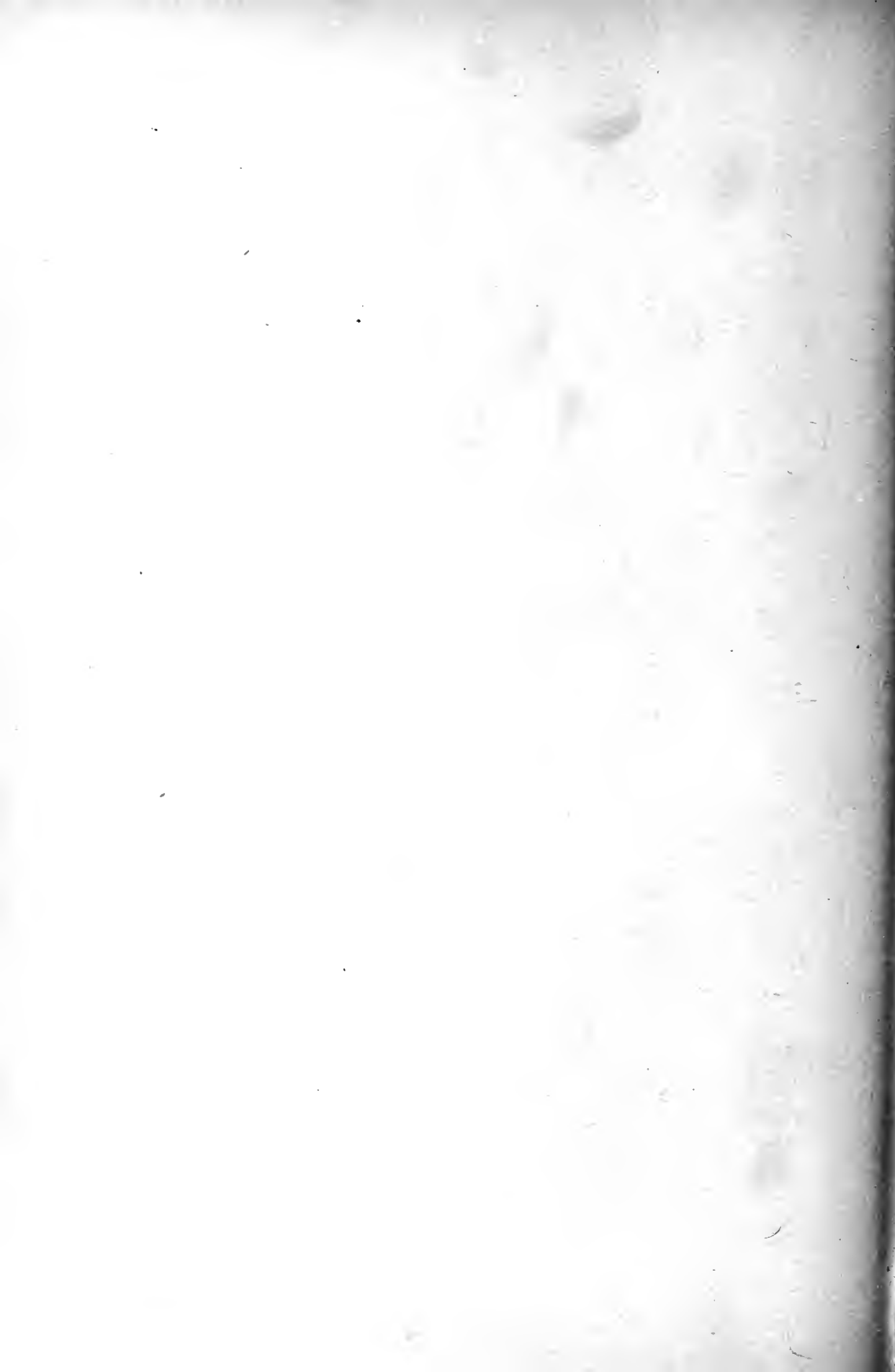
*Fourth.*—All exterior windows, including all windows on street fronts, except outside open areas, should be fitted with fireproof wire glass windows, and, in addition, where exposures are severe, with approved shutters.

*Fifth.*—The public water and fire department facilities, in most instances ill prepared to meet severe conditions, should be radically increased. This may involve the introduction of a modern, adequate and direct fire pressure water supply.

All these things and many more are directly a part of the broad subject of "fire prevention." I wish only to give a glimpse of these various avenues of investigation and research, and will express the hope that many will find the subject inviting, take occasion to pursue it diligently, and become factors in the reduction of needless fire waste, as the time has come when good men interested in this cause are needed.



### **III. Marine Insurance in the United States**



## THE DEVELOPMENT AND PRESENT STATUS OF MARINE INSURANCE IN THE UNITED STATES

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In discussing marine insurance one deals with a subject far more technical and complex than any other system of indemnity. Fire insurance provides against loss occasioned by a single occurrence. Life insurance insures against an event the occurrence of which is inevitable, and the risk concerning which has been approximately measured by the application of the law of average to accumulated data. Marine insurance, however, undertakes to indemnify a person against the loss of ship, goods, freight, anticipated profits, or any other insurable interest, through any of the numerous perils and adventures connected with navigation, such as the "perils of the sea," fires, collisions, pirates, thieves, seizures and restraints, jettisons, barratry of the master or mariners, and all other perils, losses or misfortunes which might be assumed by the policy.

While determined efforts have been made for years, and with success, to place the prosecution of life and fire insurance upon a scientific basis, this can scarcely be said of marine underwriting. Some of our leading marine companies, it is true, do possess a large mass of experience which is used as a basis in computing rates. Yet it is also true that, taking the business as a whole, there is no other branch of insurance in which success is so largely dependent upon the native sagacity, the keenness for observation, and the general specialized ability of the individual underwriter to know not only men, but the effect of climate, seasons, geographical localities and numerous other considerations upon any of a large number of risks, as in marine insurance. To a very large extent the business is inherently a system of estimates, and the importance of the personal qualities of the underwriter cannot be over-emphasized.

It is this complex nature of the business which is no doubt responsible for the fact that marine insurance is to-day a comparatively little-known business to the general public. Consult any of our leading insurance journals, and a score or more of pages will be found dealing with other lines of insurance for one dealing with this, the oldest and possibly the most interesting, and, in many particulars, equally important branch. This comparative absence of notice, however, should not cause us to overlook the fact that in this country alone between six and seven billion dollars worth of property is insured by marine companies, and that it is through this form of insurance that participation in commerce could become general and continuous. It is not to be supposed that people would risk their fortunes in enterprises surrounded with so many dangers as mercantile ventures were it not for the indemnifying contract, which in distributing the loss of a few among the many, removes the sense of fear and makes the mercantile industry one of certainty in its results instead of a half-gambling enterprise. As a prominent writer on mercantile affairs correctly states: "Marine insurance bears to commerce the relation of body-guard rather than of mere servile attendant. . . . Of the active forces which influence, control, or forbid the employment of shipping, none have greater effect than the marine insurance power."<sup>1</sup> Marine underwriting may indeed be characterized as just as much an instrumentality of commerce and almost as necessary to navigation as the ship itself. It is universally recognized as a most important factor in trade and transportation, and in modern commerce is of the utmost utility. To this may be added that, as the methods of conducting oversea trade are being constantly transformed, marine insurance is becoming an increasingly important adjunct of commerce. As Mr. Gow correctly says: "When large transactions are worked, as is now extremely common, with credits and margins, the amount of the premium of insurance is often the item that decides whether some venture will be attempted or not. The protection which marine insurance affords is now usually regarded as an absolute necessity to the oversea merchant; and thus by degrees marine insurance has become in one shape or another an integral, almost an essential, factor in oversea commercial transactions."<sup>2</sup>

<sup>1</sup> William W. Bates. *The American Marine*, p. 219.

<sup>2</sup> William Gow. *Marine Insurance*, p. 2.

*Early History.*

The practice of marine insurance may be regarded as the earliest form of indemnity, antedating other kinds of insurance by many hundred years. Even centuries before the introduction of marine underwriting as we know it to-day, the commercial nations of the ancient world secured the benefits of insurance through the so-called "loans on bottomry," *e. g.*, loans made on the security of the ship and cargo at high rates of interest, and with the understanding that the principal with interest was to be repaid only in the event of the safe arrival of the vessel, and that the lender was to forfeit both principal and interest in case of loss. Instead, then, of paying a premium before starting the voyage, as is now the case, and receiving the indemnity after a loss is incurred, the insured under the bottomry loan received the indemnity in advance, and only returned the same plus a premium after the safe termination of the voyage.

Such loans on bottomry, we are told, were especially sought after and entered into by members of the Roman nobility, who, too proud to interest themselves directly in commerce and yet desirous of obtaining large interest returns, could here find a convenient method of investing their funds profitably, and at the same time avoid engaging personally in mercantile pursuits. That such loans were prevalent among the commercial peoples of early history is attested by the numerous references concerning such transactions which are found in the judicial and other literature of the Romans. In an edict of the Roman Emperor Justinian of A. D. 533, for example, the rate of premium on such loans was fixed at twelve per cent., implying at least that the practice must have been very general at that time. Though indirect in form and partaking merely of the nature of quasi-insurance, this method of indemnifying loss by means of loans was nevertheless real insurance in its results. It should be borne in mind, however, that this method of indemnification is the only one approximating modern insurance of which antiquity furnishes us any clear and direct evidence. It might seem remarkable, indeed, that nations so far advanced in their legal systems as were the Mediterranean countries, and with such extensive commercial interests, should have left us no direct and conclusive evidence to show that they at all understood marine insurance as it is now practiced.

Marine insurance as it exists to-day originated at a much later date than the loan on bottomry. Evidence seems to show that it had its start in Italy, especially among the Lombard merchants, at the close of the twelfth and the beginning of the thirteenth century. From thence it spread to Flanders, Portugal and Spain during the fourteenth and fifteenth centuries, and was finally carried to England by the Lombards in the early part of the sixteenth century. As early as 1601 the British Parliament declares marine insurance to have existed from time immemorial (43 Elizabeth, C. 12), and describes it as a means "whereby it cometh to pass that upon the loss or perishing of any ship there followeth not the undoing of any man, but the loss lighteth rather easily upon many than heavy upon few, and rather upon them that adventure not than upon those who do adventure; whereby all merchants, especially those of the younger sort, are allured to venture more willingly and more freely."

Following its introduction in England, marine insurance spread to the various commercial centers of Europe, its application becoming very general, if judged from the consideration given to the subject in the numerous commercial codes and ordinances of the fifteenth, sixteenth and seventeenth centuries. Finally, there followed the epoch-making Ordinance de la Marine of 1681, which became the model for practically all the modern codes of commercial law on the continent, including the law of marine insurance. In England, on the contrary, the development of the law concerning sea insurance did not begin to assume such clear and definite form until almost the middle of the eighteenth century. It was then that Lord Mansfield, in his efforts to formulate the commercial law of England, began to draw his legal principles very largely from the commercial ordinances and codes of the continent with a view of applying them to English conditions. His decisions practically constitute the foundation of marine insurance law in England, and in turn have become the basis of American decisions. As supplementing this lengthy and continuous legal development, it is important to note that the Lloyds policy prevailing in England to-day is very similar to the policy which was in use in the early part of the seventeenth century, and that many features of the English policy have in turn been incorporated in the policies used in America. In other words, we have in marine insurance several centuries of usage and judicial interpretation relating to the signification of a single document.

Turning now to the financial development of the business as distinct from the legal, marine insurance has naturally reached its highest efficiency in the United Kingdom. Its history in that country, whose merchant marine for many decades comprised nearly half of the ocean-going tonnage of the world, has been rendered famous by the close identification of the business with the world-renowned corporation of Lloyds. This gigantic institution had its origin in a mere seamen's coffee house, established by an Edward Lloyd near the middle of the seventeenth century. This enterprising and energetic man, besides making his coffee house a convenient place of meeting for merchants and seamen, also created an elaborate system of home and foreign correspondents to supply him with news from all the leading ports of the world concerning the movements and character of vessels for the information of his patrons. In fact, at first the underwriting of marine risks was a subordinate feature of his business. The systematic manner, however, in which maritime information was collected and disseminated soon won for him a large following, and made his coffee house, among the many others existing in London, the principal meeting place for merchants and professional underwriters who, unhampered by any rules or regulations, assembled there and transacted a general marine business. Thus it came to pass that Lloyds soon outgrew its early usefulness, was transferred in 1692 from its original location in Tower street to Lombard street, and finally, in 1774, to the Royal Exchange of London, and there developed into the chief center of marine insurance in the United Kingdom, and, for that matter, in the world.

From this account it is not to be inferred that marine insurance in the United Kingdom is confined to Lloyds or to British shipping. Prior to the beginning of the eighteenth century the business was, it is true, confined almost entirely to the plan of Lloyds, according to which individuals assumed risks upon the strength of their personal honesty and financial standing in the community. Indeed, it was the practice of various individuals subscribing their names to the insurance contract for a certain portion of the total risk that gave rise to the familiar term "underwriter." But gradually companies began to participate in the same business that Lloyds was pursuing. The movement seemed to gain strength rapidly, when, in 1720, the British government in return for a payment of £300,000

to the Exchequer limited the privilege of insuring marine risks to only two companies besides Lloyds, namely, the London Assurance Corporation and the Royal Exchange Assurance Corporation. Shortly after, however, this monopoly was removed and since then, especially during the nineteenth century, numerous corporations in London, Liverpool and Glasgow, with vast accumulated assets and far-reaching importance, have risen alongside the unique and unrivaled corporation of Lloyds, and, like that institution, have extended their influence to all corners of the earth. So effective, in fact, has the competition of the powerful insurance companies become that Lloyds, although yet the center of attraction in the marine business, has largely ceased to possess the dominating influence of former days. It is estimated that Great Britain to-day transacts about six-eighths of the sea insurance of the world, a proportion so large that one can look for an explanation only to the preponderating importance of Great Britain as a shipping nation.

#### *The Organization and Purposes of Lloyds.*

The supreme importance of Lloyds in marine insurance from an international standpoint justifies a brief explanation of its organization and purposes. Until quite recently, Lloyds was an unincorporated body where underwriters assembled and transacted business at will, subject to few or no regulations. In the year 1871, however, Lloyds became an incorporated organization, and, according to the act of incorporation, now exists for the threefold purpose of conducting an insurance business, of protecting the commercial and maritime interests of its members, and of collecting and disseminating information pertaining to shipping.

To obtain a clear view of how this threefold purpose is realized, it is essential to study the institution of Lloyds from two points of view, namely, the Intelligence Department and the Corporation of Underwriters. For the sake of convenience we may consider the Intelligence Department first, since the collection and diffusion of maritime information is a prime prerequisite to successful underwriting. Briefly described, this department consists of numerous agents situated in every part of the world, whose position is considered one of the highest honor and importance, and whose duty it is to promptly forward information to headquarters concerning



the arrival and departure of vessels, the occurrence of wrecks and accidents, or any other events which vitally affect shipping. As representatives of Lloyds, these agents are also required to render aid to masters of vessels in distress, to take charge of a wrecked vessel's stores and materials in order to avoid unnecessary loss, to adopt precautionary measures against dishonesty when it becomes necessary to repair ships, and in a general way to protect the interests of the underwriters. To supplement the efforts of these agents, Lloyds also desires the masters of vessels to report to the nearest Lloyds' agent any information of interest concerning other ships which they might have seen or spoken with while on their voyage.

All the information thus obtained by Lloyds from agents and shipmasters from all parts of the globe is next analyzed and distributed for the benefit of underwriters and subscribers. This brings us to the next important feature of Lloyds, namely, its publications. These are five in number, namely:

(1) *Lloyds List*. The official daily publication of the corporation containing all shipping news as currently received, and generally recognized as the most reliable among the various sources of maritime intelligence.

(2) *Lloyds Register of British and Foreign Shipping*. An annual publication founded in 1834, and designed to indicate the general character of all vessels in the British marine of not less than one hundred tons, besides numerous vessels in foreign fleets. Among other items, this publication states the name, materials of construction and state of repairs of the ship, its dimensions, registered tonnage, and general equipment, the date and place of construction and by whom constructed, the name of the owners, the port to which the vessel belongs, and the date of the last survey, and, finally, the name of the master and the date of his appointment. To keep the shipping world informed of any variations which may occur, supplementary lists are published monthly in connection with the annual edition of the *Register*. In other words, this annual register may be likened to a catalogue of nearly all the important vessels of the world, from which the underwriter may ascertain by a hurried reference the general fitness of a specified vessel to make a given voyage or carry a certain cargo. To render such reference on the part of the underwriter still easier, both iron and wooden

vessels are each divided into separate classes, and these classes into grades, each grade being designated by a conventional symbol.<sup>3</sup> *Lloyds Register* is thus the hand-book of the underwriter; but it should always be kept in mind that while it is of the greatest service to those who accept marine risks, it is controlled by authorities of its own, and is an institution entirely distinct in its organization from the corporation of underwriters.<sup>4</sup>

(3) *The Index*. A list of all British mercantile vessels, together with numerous foreign ships, showing their condition and location according to the latest reports. This publication is not only open to inspection at Lloyds, but members and subscribers, wherever situated, may upon request obtain the latest news concerning any particular vessel.

(4) *A Register of Captains*. A biographical dictionary containing a record of the service, proficiency and character of the twenty-five thousand or more certified commanders of the British marine, and

(5) *A Record of Losses*, frequently called the Black Book.

Turning now to the Corporation of Underwriters, as distinct from the Intelligence Department, it is of interest to note that its membership consists of two classes: (1) The underwriting members

<sup>3</sup> Since the classification of vessels is fundamental in the shipping and insurance business, the importance of a publication like *Lloyds Register* cannot well be overestimated. Its influence became so potent a factor in British shipping that other nations were obliged to adopt a similar system, until to-day *Lloyds Register* constitutes the standard after which all other maritime nations have modelled their own Registers. To such an extent has classification of vessels become a necessary adjunct to the shipping industry, that practically no vessel of any importance in any nation is without a regular classification in some standard register. Chief among the registers now published in addition to *Lloyds* are the *Register of American Shipping* and the *American Lloyd* of the United States, the *Bureau Veritas* of France, the *Germanische Lloyd* and the *Stettiner Register* of Germany, the *Austro-Ungarian Veritas* of Austria, the *Nederlandsche-Werieniging* of Holland, the *Norske Veritas* of Scandinavia, and the *Veritas Hellenique* of Greece.

<sup>4</sup> In the modern system of classification, as Professor Gambaro explains, "ships are divided into three classes, according to the degree of confidence to be placed in their seaworthiness. A vessel recently and strongly built, well rigged and equipped, is assigned for a number of years to the first class, and may, therefore, during such period be employed with full confidence in any voyage, for the conveyance of any kind of merchandise; provided, of course, that she suffer no deterioration or damage as may render her unserviceable, and be maintained in good state of repair, which is ascertained by periodical surveys. A second term of the same class is often granted to ships proving still strong and in a good state of preservation after the first period. A special distinction over and above the highest classification may be obtained for a ship provided such materials be used in her build as directed by the committee. Vessels which have gone through this first class term are assigned to the second, and lastly, to the third class; the latter embracing vessels in very poor condition, considered fit only for short and easy voyages, and to carry cargoes not to be damaged by sea-water, such as timber, salt etc." Gambaro's *Lessons in Commerce*, p. 137.

who write insurance for their own profit, subject, of course, to the rules and requirements imposed by the managing committee of Lloyds, and (2) the non-underwriting members, who, as brokers and merchants, transact business through the underwriting members either for themselves or others. In addition to these two classes, there are also numerous subscribers to Lloyds for the information received at the Royal Exchange, many of whom are British and foreign insurance companies. Here it remains to be said that practically all the great marine insurance companies of the United Kingdom (and they number some thirty or more), even though their marine business in the aggregate far exceeds that of Lloyds, must nevertheless be represented on its floor, and must necessarily and continually receive the assistance of that organization in the prosecution of their business.<sup>5</sup>

As a corporation Lloyds resembles our stock exchanges in many particulars. It assumes no responsibility whatever for the solvency of its members. It seeks only to provide proper facilities to its members for the conduct of their business, and to limit admission to men of recognized honesty and financial standing. As a guarantee for the fulfillment of contracts, each underwriting member is required to deposit with the committee of Lloyds securities to the value of £5,000. Aside from this requirement, the corporation does not concern itself as to the nature or the volume of the business transacted by its members. They are free to do as much underwriting as they like, and may pursue any kind of insurance they choose, only they must do it honestly. As a consequence Lloyds, although marine insurance and the furnishing of maritime intelligence is the fundamental character of its business, is a place where one may insure against all sorts of contingencies,—against fire, epidemics, sickness and all sorts of accidents, against the risks of journeys and business ventures, against the loss of works of art and valuable possessions, or to avoid loss from the unforeseen stoppage of games and races, or to meet contemplated changes in foreign tariffs, or to provide against the risks of war during periods of political excitement, and a hundred and one other contingencies of every conceivable kind, many of them nothing more than betting

<sup>5</sup> For a concise account of the organization of Lloyds and an excellent description of its system of classifying vessels and distributing marine intelligence see Professor Gambaro's "*Lessons in Commerce*."

arrangements. Combining all these different forms of indemnity with the marine business, authorities place the total amount of risk carried at Lloyds at approximately \$2,500,000,000, while the total deposits paid in by members as a guarantee for the performance of contracts are placed at not more than \$20,000,000, or about only one per cent. of the risks assumed.

In its daily routine of business Lloyds affords an interesting and instructive spectacle, and illustrates the complexity and arbitrary nature which surrounds a good share of the business. On the Exchange, for example, are several hundred underwriters, unincorporated and unable thus to act jointly. To describe the manner in which these members transact business, I can do no better than cite from Mr. Samuel Plimsoll's concise and picturesque account. "There are seldom," he says, "less than fifty underwriters on a policy, frequently over one hundred (the three policies before me show an average of seventy-two subscribers), not bound together at all, each individual can only act for himself, and accepts just so much of the whole risk as he pleases; he seldom, almost never, accepts for any large amount, always for a very small proportion indeed of the whole amount covered. The way of it is this: A member of Lloyds (underwriters' room) first gives evidence or security as to his ability to pay losses; then he has a desk allotted to him (they are very numerous—between three hundred and fifty and four hundred in London alone, where, however, the bulk of underwriting is done); the proposals of insurance are handed around by the insurance brokers' clerks all day long; these proposals, called slips, give the name of the ship, amount to be insured, and rate per cent. offered. Perhaps sixty or seventy of these slips, or even more, are laid before each underwriter daily. After reference to Lloyd's List of Ships, he either passes it on or, if he decides to 'take a line' upon it, he subscribes or 'underwrites' his name, together with the amount he is willing to guarantee for at the rate specified; this varies much and generally goes as low as £200 or £100, frequently £50, and sometimes even less than that—*never* an amount large enough to warrant his disputing his liability in case of loss."<sup>6</sup>

As a result of the procedure thus described by Mr. Plimsoll, it follows that the underwriter at Lloyds has practically no oppor-

<sup>6</sup> Samuel Plimsoll. *The Nineteenth Century*, Vol. XXV., p. 329.

tunity to examine the risk as he would do in other leading forms of insurance. The only sources of information which he might use as a guide are, as a rule, the publications of the corporation like the *Annual Register*, the *Captain's Register*, and *Lloyds' List*. From these he may obtain useful information concerning the age, size, structure, equipment and management of the vessel as based on frequent surveys by expert surveyors. But naturally such classifications have their limits, and do not purpose giving more than a general description of the vessel in question. Concerning many factors like stowage, the amount of load, the size and efficiency of the crew, and numerous other factors equally vital to the safety of a vessel and cargo at sea, these publications can offer no assistance. It is here that the insurer must use his judgment and where success is largely dependent upon the specialized ability of the underwriter. Nor would it be to the interest of the insurer at Lloyds to make such an examination, assuming that he could do so. Not only will his limited time and the large number of proposals made to him daily render this impossible, but the mere fact that probably half a hundred other persons have underwritten the same policy will make it seem foolhardy that he alone should undertake the examination. To retain his business he must be quick in accepting or rejecting proposals on the spot, and cannot afford to tarry, since it is the brokers' business to secure insurance for his patrons as quickly as possible. Moreover, the amount of the total risk to which he has subscribed is, as we have seen, comparatively small and limited to an amount which will not make it worth his while to contest a claim or pursue an examination. And even if the underwriter be a subscriber for a large amount it does not necessarily follow that he will be actually liable for the amount underwritten, for as soon as he fears having sustained a loss he will endeavor to transfer his risk. This he does by offering a higher premium as an inducement for some one else to take all or a share of his risk. One underwriter fearing a loss thus transfers part of his risk to another, who expects the early and safe arrival of the vessel. If uncertainty concerning the vessel continues, this second underwriter by offering a still higher premium may transfer part of his risk to another, who again has good hopes, and so on until, if it is finally learned that the vessel and cargo are lost, the risk has been so widely diffused that the loss incurred by any one individual is comparatively small. Lastly, it is

interesting to note that collectively the underwriters at Lloyds have no interest in examining risks because they have no interest in diminishing loss. On the contrary, strange as it may seem, they express a preference for a high rate of loss to a low one. Individually they all desire and expect to avoid the payment of claims, but collectively they all wish and expect to profit by high rates. Hence it is that they prefer the increase in premiums which accompanies an increase in losses.

*Development of Marine Insurance in the United States.*

A review of marine insurance in the United States shows that its development as well as its present status is radically different from that in England as just described. In the first place, the business has been conducted almost altogether by corporations, the Lloyds system of underwriting, though often tried, having never obtained a prominent foothold in this country. Secondly, while British companies have had a long and prosperous career, the companies of the United States, with few exceptions, have either failed or changed the character of their business. If we are justified in fixing definite limits, the development of the business in this country seems to divide itself into four main epochs, each with distinctive characteristics of its own. The dates of these periods may be roughly placed at 1793 as marking the end of the first period, 1793 to 1840 as indicating the limits of the second period, 1840 to 1860 the third, and 1860 to the present time the final period.

During the first period, extending to the end of the eighteenth century, the only form of insurance upon goods or vessels of which we have definite knowledge was by personal underwriters. Resort was had at first to the private underwriters of Great Britain, frequent mention being found in early colonial correspondence concerning London indemnity for American shipping. Even as late as 1721 there was as yet no insurance office in Philadelphia, dependence being placed mostly upon foreign underwriters. In that year we find a Mr. John Copson, advertising in the *American Weekly Mercury* of May 25, the opening by him of an office of public insurance on vessels, goods and merchandise, because, as he announced in the advertisement, "the merchants of this City of Philadelphia and other ports have been obliged to send to London for such insurance, which has not only been tedious and troublesome, but ever pre-

carious, and for the remedying of which this office is opened." Four years later Mr. Francis Rawle, of Philadelphia, advised the establishment of a marine insurance office under colonial legislative sanction, and the pamphlet embodying his ideas was, according to report, the first work issued from Benjamin Franklin's press. Following Mr. Copson's and Mr. Rawle's pioneer attempts to establish insurance offices, few efforts were made to follow in their footsteps. Mr. Fowler, in his history of insurance in Philadelphia, informs us that for seventy years afterwards Philadelphia merchants still looked to the Old World as the chief source from which to obtain their insurance. Likewise in New York City it was not until 1759 that the first marine insurance office was opened, and not until 1778 that the New Insurance Office was established. The underwriting in all these cases continued to be by individuals or partnerships only, who generally represented wealthy citizens of the community.

It was not until near the close of the eighteenth century that a number of citizens of Philadelphia succeeded in inducing the General Assembly of Pennsylvania to charter a marine insurance company, capitalized at \$600,000. The reasons assigned for this step by the legislative committee reporting in favor of granting the charter were: (1) That an incorporated company of this size could conduct an insurance business on a safer and more staple basis than could individuals; (2) that from a legal point of view justice could be secured more readily in the case of a corporate organization, since it would obviate the expense and loss of time required to sue separately all the different underwriters to a policy; (3) that the number of persons underwriting in Philadelphia was insufficient for the needs of its commercial interests, thus occasioning a drain of money for insurance to Europe and neighboring states; and, lastly, that since the company did not ask for a monopoly, the granting of the charter would simply mean the bringing about of a wholesome competition, and would enable the business to be conducted on an enlarged scale to the great benefit of commerce. In view of these reasons thus offered, the Assembly, in the year 1794,<sup>7</sup> chartered the Insurance Company of North America, the first stock company of its kind upon the continent whose name it bore. Fortunately this pioneer company was launched at a time when Philadelphia was still the commercial metropolis of the country, with its

<sup>7</sup>The Insurance Company of North America began business as an association in 1792, and was incorporated in 1794.

shipowners and merchants trading in all the remote quarters of the globe, and, therefore, large purchasers of insurance. Indeed it was not long before the brokers, who previously had had the American business to themselves, found that their patrons preferred the stability of corporate underwriting on a large scale to the underwriting of individuals. In the very first year of active business the company refused to write for private offices, and "realizing its strength, made public advertisement of their rules, and invited orders to be addressed directly to the company."<sup>8</sup>

This important step toward the establishment of corporate underwriting with all its advantages was soon to serve as a model for similar undertakings in other parts of the country, and before another decade had passed the Insurance Company of North America was to have active associates in its own home as well as in New York, Boston, Baltimore, Charleston, and other places. In 1796 was established the Insurance Company of New York in New York City, followed by the Associated Underwriters of the same city in 1797, the United in 1797, Columbian in 1801, Washington Mutual in 1802, Marine in 1802, Commercial in 1804, Phoenix in 1807, Fireman's in 1810, Ocean in 1810, and others. In Philadelphia there followed the Insurance Company of the State of Pennsylvania in 1794, the Phoenix in 1803, the Philadelphia in 1804, Delaware in 1804, Marine in 1809, and the United States in 1810. Boston also came into the field at an early date, the Massachusetts Fire and Marine Company being organized in that city in 1795, and the Boston Marine in 1799; while among other early companies of importance may be mentioned the Charitable Marine Society of Baltimore, organized in 1796; the New Haven Insurance Company, of New Haven, in 1797; the Charleston Insurance Company, of Charleston, S. C., in 1797, and the Newburyport Marine, of Newburyport, Mass., in 1797. So rapid, in fact, was the movement of incorporating insurance companies that prior to 1800 thirty-two insurance companies had been established in this country, of which ten were doing a marine business. By 1811 there existed in Philadelphia alone eleven companies, seven of which were marine companies and one a fire-marine company, while by 1825 there were twelve marine stock companies in New York, and at least a dozen in Boston.

<sup>8</sup> History of the Insurance Company of North America, p. 56.



Prior to 1830 the history of these companies may be characterized as one of periodical prosperity and depression. If judged by the experience of the largest company (and this is typical of most other companies) the business exhibited the greatest fluctuations. Thus during the first decade of its history ending with December, 1802, the Insurance Company of North America collected premiums of \$6,037,456, and paid losses of \$5,500,887, leaving a margin of less than 9 per cent. for expenses. During this decade the premium receipts rose from \$213,465.31 in 1793 to \$290,656.83 in 1794 and \$1,304,208.91 in 1798. This large income, received by an American company prior to the beginning of the nineteenth century, it is interesting to note, is equal to three-fourths of the marine premiums received by the same company to-day, and exceeds the marine premium income of any other American company at the present time except one. Then began a decline, until in 1802 the premium income amounted to only \$103,902.26, which sum, however, was trebled in 1805, and again trebled in 1806. Then came the Embargo Acts and premium receipts suddenly fell to the mere pittance of \$5,483.55 in 1808, while losses continued as high as \$108,568.93. Even in the years 1809 to 1812, inclusive, the average annual receipts equaled but \$45,449, as compared with \$1,304,000 in 1798. If the decade ending in 1802 is compared with that ending in 1812, it appears that the first shows premium receipts of \$6,000,000 and losses of \$5,500,000, while the second shows premiums of only \$1,364,637, or only one-fifth the income of the first decade, and losses of \$1,583,836.47.

These remarkable fluctuations, as also the decrease in the annual premium receipts and the increase in the ratio of loss to income, are to be explained partly by the growing competition arising from the numerous rival institutions which were springing up everywhere; partly because insurance managers had not yet mastered the lesson of a solid surplus and very imprudently distributed all profits to stockholders without making provision for the heavy losses of the immediate and stormy future; but mainly to the heavy losses connected with the Napoleonic Wars. This series of bitter struggles, with its blockades and counter-blockades, affecting practically all of commercial Europe, subjected American commerce to unusual risks and losses. Insurance was consequently in great demand and came for the first time to be regularly adopted by all shipowners, and at rates which averaged as high as twelve per cent.

But while the business of marine insurance received a strong impetus during this period of strife, the business was, nevertheless, of uncertain tenure, being constantly subject to the heavy losses arising from capture, detention, and litigation which frequently resulted, owing to the absence of a large surplus, in severely impairing the capital of the companies. Mr. Seyfert, for example, in a list compiled from a report of the Secretary of State, shows that the total captures of American vessels by the British, French, Neapolitans and Danes during the years 1803 to 1812 aggregated nearly 1,600 vessels, the major portion of which were condemned, and most of the others detained. At the same time we have the statement made in the House of Peers that 600 American vessels were seized or detained in British ports within a period of less than five months from November 6, 1793, to March 28, 1794.<sup>9</sup>

Such extraordinary losses by capture and detention were bound to prove a heavy drain on the resources of the companies. And in those days of slow communication it would often happen that they might be incurring heavy losses at the hands of foreign cruisers without being able to obtain knowledge of the same for months, in the meantime assuming new risks equally exposed to the attacks of the enemy. To obtain a clear conception of the losses thus sustained one need only examine the proceedings of a few companies of this period. On February 12, 1801, the directors of the Insurance Company of North America "ordered that an account of all illegal captures made by the British and French be made out for the purpose of representing the same to the United States Government."<sup>10</sup> No better evidence can be advanced to indicate the severity of the struggle which the early companies were undergoing than the account of the committee entrusted with this work. Its report stated that "the number and amount of the companies' claims on the British Government for spoliation on property which they (the committee) think that nation ought to refund is about \$981,355; other losses occasioned by this office by capture of the British and for which there is no expectation of reimbursement, is about \$78,800. With respect to the captures made by the French, your committee can only state that they amount to \$1,952,730."<sup>11</sup> Many of the claims thus incurred were later adjusted by international arrangement. Others, however,

<sup>9</sup> Adam Seyfert. *Statistical Annals of the United States*, pp. 79-81.

<sup>10</sup> *History of the Insurance Company of North America*, p. 56.

<sup>11</sup> *Ibid.*

were not, and numerous attempts were made in later years to recover losses sustained during this period. No less than twenty-two reports of committees, all favoring the claimants, were made in Congress between the years 1827 and 1846 for an indemnity of \$5,000,000. Twice, in 1846 and 1855, did the bills pass through all stages of enactment except the President's signature, and even as late as 1885 we find the matter still before Congress.

With the cessation in 1815 of the widespread Napoleonic wars of twenty-three years and the introduction of a period of profound peace one might have supposed that the business would have immediately revived. But such was not the case. The high war rates gradually gave way before low peace rates, and by 1820 these were the general rule. By this time, too, personal underwriters had been almost entirely displaced by underwriting corporations whose number had greatly multiplied in all the leading seaports. To make matters still worse, in view of the rapidly declining rates, these numerous corporations began to wage a fierce and incessant competitive war against each other. The elimination of the personal underwriter meant the establishment of the broker as middleman, and soon the numerous companies in the various leading commercial centers no longer confined their business activity to their own locality, as they had done heretofore, but began to solicit risks from the outside by correspondence and otherwise. As a result of this rate-war, many of the younger companies were brought to the verge of insolvency, and most of the older ones were unable to pay dividends on their capital equal to the current rate of interest. So great was the competition that at the close of 1825 the stock of only four of the twelve stock companies in New York was quoted at or above par. Beginning with 1828 marine insurance companies were also obliged to pay extraordinary losses occasioned by fraudulent wrecks on the Atlantic, Gulf and West India coasts. Estimates place the losses incurred in this way at one-third of the total loss sustained by companies during the twenty years preceding 1840.<sup>12</sup> It was not till 1844 that the companies of Philadelphia, for example, managed to organize a protective association, through whose action these heavy losses by fraud could be averted.<sup>13</sup>

Beginning with the fifth decade, the business again showed signs

<sup>12</sup> Albert Bolles. *Industrial History of the United States*, p. 820.

<sup>13</sup> *Ibid.*

of gradual revival, and the twenty years following 1840 may be justly characterized as the "golden period" of American marine insurance. It was during these years that the American clipper ship received its highest development, and became probably the most efficient carrier in the world. Our tonnage in the foreign carrying trade increased from 762,838 registered tons in 1840 to 2,496,894 tons in 1861, the highest point ever reached in our history, and a tonnage nearly two and one-half times as large as the largest tonnage registered for any single year prior to 1840. Along with this remarkable increase of 1,734,056 tons in twenty years, American vessels continued during these two decades to carry on an average seventy per cent. of the combined imports and exports of the country, the proportion in some years running as high as 81 to 83 per cent. It was also during this epoch that American trade with the Far East and other remote parts of the globe became more prominent than ever before. Unlike the practice in modern commerce, the merchants in those days were largely the owners of the ships which carried their cargoes, and naturally they insured both in American companies. The voyages, as a rule, were long, extending in many cases over six or nine months before the vessel was heard from. The risk was thus very considerable, insurance was an indispensable necessity greatly desired, and rates ranged as high as five to six per cent. We are told that even between New York and Liverpool the rate on dry goods was as high as two per cent. compared with the existing rate of between one-eighth and one-tenth of one per cent. on our modern steamers. All these factors—increasing commerce under American ownership, long voyages of a risky nature, and high rates—combined to give to marine insurance during this period an impetus such as it had never experienced before.

But this period of unparalleled growth proved to be but temporary, and was followed by an epoch, extending to the present, as disastrous to the business as the preceding period had been beneficial. For many years marine insurance had kept in the forefront of our commercial life, and could indeed be ranked with fire insurance in importance. It began to show unmistakable signs of decay, for reasons to be mentioned shortly, when the American flag began to vanish from the sea. This decline has been continuous and unchecked. In fact, during the last thirty-five years marine insurance by native companies has had to struggle for its life. How

severe this struggle has been, and how severely the business has suffered may be inferred from the fact that since the organization of the first company in New York, in 1796, some thirty companies have been chartered in that state, and of this number only three, the Atlantic Mutual, the Home and the Greenwich Insurance Companies, still continue to do business. To recite the history of the business in our other commercial states is merely to repeat its history in New York. In all marine insurance once flourished, but in all it has largely disappeared.

*Reasons for the Decline of the Business.*

But why this decline? it will be asked. The answer is that two main causes have contributed, namely, competition of foreign companies, and changed business conditions. Owing principally to the introduction by England during the fifth and sixth decades of the last century of iron as shipbuilding material and coal as fuel, just at the time when the United States had not yet developed its iron and coal resources, and when the attention of the country was turned away from the sea to the development of the interior, the American wooden ship, which up to this time had been an important factor in international trade, began for the first time to feel seriously the effects of foreign competition. Immediately following the introduction of the iron steamship by England came the Civil War, with its heavy losses for marine companies, with its heavy taxation of American commerce, with the almost complete cessation of the important cotton trade and the trade with the Southern States, with the capture and destruction of Union ships by Confederate cruisers, with the transfer by sale of a large portion of American tonnage to foreign countries, and, in general, the complete demoralization of American shipping. The direct effect of these various factors, growing out of the Civil War, upon our marine insurance companies can scarcely be overemphasized. To illustrate how the prosperity of the business in the preceding period vanished shortly after the commencement of hostilities, we can do no better than consult the annual reports of the New York Insurance Department, since the experience of the companies here is but typical of that in other states. In the report of 1862 the Superintendent of Insurance states "that the disorders and complications resulting from the insurrection of several

states during the last year have necessarily affected to a considerable extent the business of our marine companies; but an examination of their statements will show that the well-established reputation of our marine underwriters is enhanced by their successful transit over this ever memorable year. With the single exception of the Anchor no failures have occurred among the companies." In the report of 1863 we again find that "not a single company is blotted out." But the companies could not continue to fight successfully against overwhelming misfortunes. In 1864 we note that two important companies failed; and in 1865 occurred the failure of the Columbian, with outstanding unpaid losses of \$3,470,000. According to the report for 1865 the incomes of the marine insurance companies in New York showed that only one of the eleven companies in the state received more than it expended during the year, the total net excess of expenditures over income being \$1,458,309, not counting the heavy losses of the Columbian. While the ratio of marine and inland losses paid to premiums received in the United States in 1904 amounted to but 47.43 per cent., that ratio rose to 71.64 per cent. in 1865 (not including the losses of the Columbian) and to the extraordinary ratio of 83.13 per cent. in 1866. Although the premiums in 1866 were increased \$3,223,199 over the year 1865, the losses exceeded those of 1865 by \$3,938,606; while the gross expenditures of the companies exceeded the gross income in the sum of \$1,243,000, thus causing the Superintendent of Insurance to report that "the present fearful percentage of loss is too excessive and must in some manner be reduced, and not merely covered by insurance." Before business conditions could again become staple, the number of marine insurance companies in New York had been reduced by failures from fourteen (the number in 1861) to nine in 1867, while nearly all which survived were no longer the prosperous companies of the preceding decade.

But there were also indirect effects growing out of the Civil War and the competition of the iron steamship quite as important as those just mentioned. All the factors enumerated above, coming in close succession and at a most critical time, gave Great Britain the opportunity which she was only too quick to seize, to monopolize the construction and operation of the world's shipping. As a consequence, the tonnage of the United States engaged in foreign trade has gradually declined to 888,628 tons in 1904, or only one-third of

what it was in 1861. While the United States carried seventy-five per cent. of our total imports and exports in its own ships during the two decades from 1840 to 1861, that proportion has steadily declined until it is less than eight per cent. to-day.

Now, hand in hand with the steady decay of our merchant marine after the war, there followed a corresponding decline in the magnitude and prestige of the marine insurance business. Great Britain was capturing the carrying trade of the world, and British merchants and shipowners were just as naturally giving their patronage to their own underwriters, as American merchants and shipowners had insured in American companies while our carrying trade was still in its glory.

But British underwriters were doing more than merely acquiring business which formerly had gone to American companies. They were consciously pursuing a policy, whether justly or unjustly it is not our purpose to state, which aimed to give preference to their own flag on the sea through inspection and classification at Lloyds, and through these channels the fixing of insurance rates. The essential features of this policy may be enumerated as follows:

(1) To grade vessels not so much with reference to their design and sea-going capacity, as according to their intrinsic quality as measured largely by the cost of construction and repairs. This meant discounting the sea-going worth of the American clipper ship.

(2) To favor British-built vessels and British ship-building materials in the matter of inspection and classification. One writer even goes so far as to state that "nothing 'foreign' has ever received the highest rating from Lloyds."<sup>14</sup> Especially in the rating of timber for shipbuilding purposes has this policy manifested itself most clearly. At no time has American timber been graded the same in years as timber of British origin, the best white oak of the United States being allowed but two-thirds of the time given to British oak. From the beginning, too, Lloyds has observed the rule not to grant a full class to any vessel unless the date and place of building is announced, and the construction has taken place under survey. At the same time, even before iron shipbuilding began in England, Lloyds never appointed surveyors to inspect the construction of foreign wooden vessels.

(3) To protect and foster metal and steam tonnage and to make

<sup>14</sup> William W. Bates. *American Navigation*, p. 303.

the British iron steamship, the construction of which was for many years practically monopolized by Great Britain, the standard in international trade. Such a policy was bound to hasten the decline of American shipping. Underclassing the American wooden ship by Lloyds meant in actual practice a very considerable decrease in the chances for speedy and profitable employment. In 1870, Lloyds refused to classify and register foreign wooden vessels except on special survey and for a period not exceeding one year. The object was to encourage the chartering of British vessels in preference to wooden ships, and the effect of the rule was to obtain for Great Britain a large part of our carrying trade.

Evidence seems to show that marine underwriting has not declined in the United States because American companies have failed to meet the rates of foreign underwriters. Instead, the decline must be attributed to the decay of our merchant marine engaged in foreign trade, and among the numerous causes mentioned as instrumental in bringing about this result, the policy of Lloyds must be classed as one. As Mr. Bates says: "It was rare indeed that a British policy covered an American hull. The purpose was to mark the American ship with *inferiority* in the *Register*, thereby to prevent ready employment and full rates of freight. And yet, in order to get cargoes that were bound to be covered by British insurance, it was necessary to hold a class of some grade in Lloyds *Register*."<sup>15</sup> Whatever the purpose of the various regulations adopted by Lloyds may have been, whether based justly on the relative merits of vessels or not, they did, at a most critical period in the history of our merchant marine, represent American ships to the world as an inferior type, did contribute toward the decline of the American marine by decreasing its chances of profitable employment, and by helping thus to transfer the carrying trade from the United States to Great Britain, did contribute to the growth of marine insurance abroad and toward its decline here.

Foreign underwriters, however, were not satisfied with getting the American business that came to them at home, but began in the early seventies to invade American territory itself. To ascertain the rapidity of this movement we may again consult the insurance reports of New York, the experience here being typical of that in other leading commercial states. In the report of 1868 the Superin-

<sup>15</sup> William W. Bates. *American Navigation*, p. 305.



tendent of Insurance states that "no foreign marine insurance companies have ever been admitted by this department to transact business in the state of New York"; while the report for 1871 shows only one foreign company as compared with nine New York companies. By 1872, however, there were four foreign marine companies transacting business in New York; while by 1874 the number had increased to seven. This increase in the number of foreign companies has continued, so that while to-day there are only three New York companies of any importance transacting marine insurance in that state, there are fifteen foreign companies.

In entering American territory foreign companies were materially assisted by the lenient laws of some of our states requiring of foreign companies, as a prerequisite for admission, a deposit only equal to the minimum capital demanded of domestic companies. They began their onslaught by cutting rates, and the American companies, probably too few in number by this time or otherwise unable to effect an efficient combination in opposition, were compelled to follow suit. Then began a period of the most active competition between domestic and foreign companies, the result of which, in view of the other unfavorable attending circumstances already mentioned, meant the gradual forcing of American companies out of existence.

In this competition the foreign competitors had the advantage of the much better organization and the much greater financial strength acquired at home during their much longer existence, and could, therefore, afford to assume much larger risks based on their home capital. The small American companies, on the contrary, though their assets might be considerably in excess of the assets actually held by foreign companies in this country, were, nevertheless, for the reason mentioned above, limited to a much smaller aggregate of risks. To distinguish between the efficiency of the two classes of companies in this respect one need only examine the data concerning foreign companies as given in the Insurance Year-Book. Of twenty-seven leading British marine companies mentioned here in 1902, twenty, or three-fourths, confine themselves solely to the writing of marine risks, while in the United States nearly all companies transacting a marine insurance business place their greatest reliance upon the fire insurance branch of their business. Moreover, most of the early American companies

have ceased doing business and only a few (the leading ones) have had a long and continuous existence. In the United Kingdom, on the contrary, of the twenty-seven companies referred to, eight were organized prior to 1837, three considerably before the beginning of the nineteenth century, and all except four have had an existence of at least a quarter of a century, and most of them much longer. During this long and, on the whole, prosperous existence these companies have accumulated enormous assets, thus giving them an advantage over American companies, a fact which becomes clear when we reflect that the eight principal English companies doing business in the United States to-day have assets at home exceeding \$50,000,000. "The financial position of nearly all the British marine companies," according to the Insurance Supplement to *The Statist*,<sup>16</sup> "is of such strength that even an unusually long period of adversity could be faced with equanimity. By a long process of limiting dividends they have acquired funds so large that policyholders are most adequately secured, while at the same time the interest earnings are sufficient, or nearly sufficient, to provide for the maintenance of the present rate of dividends. Thus even very moderate trading profits are amply sufficient steadily to increase the financial security. . . . To show the great and increasing financial strength of the marine insurance companies it should be noted that the accumulated funds have increased 38 per cent. during the decade 1893-1903, the premium income has only risen 14 per cent., and the proportion of the former to the latter has risen from 177 to 217 per cent. Thus the invested funds represent over £2 for every £1 annually received from policyholders, an exceedingly satisfactory position from all points of view. . . . In fact, the financial position of most of the offices is so strong that temporary profit fluctuations may be disregarded, and in many cases present dividends could be maintained even if the companies undertook no more business whatever."

The truth of the above summary is borne out by a consideration of the dividends paid and the interest earnings of the thirteen principal British companies (nearly all of which operate in the United States) during the years 1901 to 1904. The last three years of this period have been marked by a severe depression in the shipping industry, and consequently marine profits have been below the average.

<sup>16</sup> Supplement to *The Statist*. May 6, 1905, pp. 27 and 28.

Yet the annual dividend of only two of these companies averaged as low as six and seven and one-half per cent., respectively, during the period; in six companies it averaged between ten and twenty per cent.; in four between twenty and forty per cent.; and in one 44.5 per cent. In eight companies the average annual interest earnings on the accumulated funds exceeded the large dividends paid, and in the remaining five were nearly as large. Moreover, the average annual surplus of these companies, after deducting from the net premium income of the year the actual losses paid, all expenses, dividends, and appropriations to the suspense account, aggregated \$1,708,000. A financial showing of this kind is especially significant since fluctuations in income are inevitable in a business like marine insurance where the rates and the amount of business, roughly speaking, rise and fall with the prosperity or depression of the shipping industry, the most sensitive to changing industrial and political conditions of any large industry in the world. English companies are to-day our main competitors, but companies of other countries, notably Germany and Canada, are entering the ranks against us. Even on the Pacific coast nineteen foreign companies, unknown to other sections of the country, are doing business, representing England, Germany, France, Italy, Switzerland, China and Japan.

*The Business of the Principal American Companies.*

In the United States the marine insurance business which is not written by foreign underwriters is controlled mainly by seven domestic companies. According to the state insurance reports, these companies are doing a prosperous business, each collecting over \$400,000 of marine premiums annually. Collectively they received, according to the last reports available, \$8,608,672, or eight-tenths of the total net marine premiums collected by American companies; possessed assets of \$40,782,058, and carried marine risks aggregating \$2,323,000,000. But only one of these companies, the Atlantic Mutual of New York, depends solely upon its marine and inland business, its premium receipts amounting to \$3,013,944, its marine losses to \$1,142,302, and its admitted assets \$12,025,021. The other six companies, considered collectively, depend principally upon a fire insurance business, their fire premiums amounting to \$15,039,227, as compared with \$5,594,728 for marine premiums, thus constituting

nearly three-fourths of their total premium income. The following is a summary of the business transacted by the principal American companies:

Name of Co.	Place and Date of Organization.	Marine and Inland Premiums.	Fire Premiums.	Admitted Assets.	Total Marine Risks Written.
Atlantic Mutual . . . . .	New York, 1842..	\$3,013,944	.....	\$12,025,021	\$812,142,631
Ins. Co. of N. Am . . . . .	Philadelphia, 1794..	1,819,199	\$4,994,034	11,259,981	408,428,728
Fireman's Fund Ins. Co. . . . .	San Francisco 1863..	534,364	2,724,792	5,128,535	170,703,287
Federal Ins. Co . . . . .	Jersey City, 1901..	703,149	103,862	1,731,909	544,097,405
Boston Ins. Co . . . . .	Boston, 1873..	823,563	633,609	3,814,633	147,730,890
Providence-Washington . . . . .	Providence, 1799..	412,027	1,495,442	2,392,458	129,696,983
St. Paul F. M. Co. . . . .	St. Paul, 1865..	423,814	2,554,566	3,688,243	110,099,007

From the Forty-fifth Report of the Superintendent of Insurance of New York for the calendar year ending Dec. 31, 1903.

Of the numerous other marine and fire-marine companies the following four may be mentioned:

Ætna . . . . .	Hartford, Conn, 1819..	\$328,238	\$5,109,630	\$15,190,888	\$102,597,362
Home Ins. Co. . . . .	New York, 1853..	262,361	7,813,758	18,040,793	80,719,364
China Mutual . . . . .	Boston, 1853..	293,821	.....	279,886	33,602,258
Greenwich Ins. Co. . . . .	New York, 1834..	195,200	1,744,455	2,120,003	53,792,268

For the calendar year ending Dec. 31, 1903.

### *The Business of Domestic and Foreign Companies in the United States Compared.*

The extent to which foreign companies have acquired control of marine insurance in the United States becomes especially clear if one examines the annual financial reports of the various companies. If a compilation is made of the statistics as found in these reports, it will appear that for the year 1903 the total net marine risks assumed by all the foreign and domestic companies operating in the United States aggregated approximately \$6,877,006,221, the net premiums received nearly \$18,000,000, and the admitted assets \$112,912,000. Of these amounts the American branches of the twenty leading foreign companies (to say nothing of the large number of foreign companies operating on the Pacific coast) wrote \$3,723,000,000 of the risks, or 54 per cent. of the total, received \$7,160,335 of the net premiums, but possess only 21,733,958, or less than one-fourth of the admitted assets. Most of these foreign companies also confine themselves solely to the writing of marine risks, only six of the above twenty companies transacting a fire business in addition to their marine business.

Strikingly different is the situation as revealed by the statistics collected from the reports of American fire and fire-marine companies. Thus, there are at present thirty-one domestic marine and fire-marine companies operating in the United States, writing approximately \$3,153,000,000 of net risks, collecting \$10,703,000 of net premiums, and possessing \$91,178,000 of admitted assets. Yet of this large number of companies, it must be remembered that the two largest, the Insurance Company of North America and the Atlantic Mutual of New York, write over one-third of the total risks assumed by American companies (\$1,220,000,000), collect nearly one-half of the total premiums (\$5,180,682), and possess one-fourth of the total assets (\$23,285,000). Considering the eleven largest domestic companies, comprising only one-third of the total number, it appears that they write 82 per cent. of the total risks assumed by domestic companies, receive 95 per cent. of the total premiums, and own 83 per cent. of the total assets. The remaining companies are of so little significance from a marine insurance standpoint that they may be eliminated for all practical purposes, a fact which becomes apparent when it is remembered that fourteen of these companies combined collected only \$83,592 in premiums in 1904.

Unlike the foreign companies operating in the United States, the domestic companies depend much more largely on a fire insurance business in conjunction with their marine business. Only five of the thirty-one domestic companies devote themselves exclusively to marine insurance, and of these five companies only two can be classed as important. All the other companies combine a fire insurance business with the marine business, and almost without exception place much greater emphasis upon the former than upon the latter. Thus of the twenty-six domestic fire-marine companies only two do a larger marine than a fire insurance business; in two other companies the marine and inland business is only 34 per cent. and 45 per cent. as large as the fire insurance business; in three only 22 per cent. to 27 per cent. as large; in two only 11 per cent. and 16 per cent.; and in all the remaining companies less than 7 per cent. Combining the business of all the domestic marine and fire-marine companies, it appears that they carry nearly three times as much fire risk as marine and inland risks, and receive nearly four times as much in premiums from their fire as from their marine and

inland business. Indeed, there are many fire insurance companies in the United States to-day whose names clearly indicate that they were at one time fire-marine companies, and whose charters originally entitled them to transact a marine insurance business, but which have ceased altogether to underwrite such risks. Moreover, upon inquiry it was learned from a considerable number of companies that their marine business has been and is decreasing in volume owing to the fact that large foreign marine companies insure entire ship cargoes, leaving only small amounts to be picked up by the smaller companies. Other companies continue to carry each year a small amount of insurance of from several hundred to a few thousand dollars in premiums for the sole purpose of keeping alive that part of their charter which permits them to write marine insurance.

Continuing our investigation still further, it appears that the business of the foreign companies operating in the United States is by no means limited to any particular section of the country, but is general throughout. In the eastern coast states of Massachusetts, New York, Pennsylvania and New Jersey, where over one-half of the country's total marine insurance is transacted, the business is divided nearly half and half between domestic and foreign companies. Domestic companies wrote in 1903 54 per cent. of the total risks and earned 65 per cent. of the net premiums, the greater part of the insurance being for hulls and cargoes of American vessels engaged in the coastwise trade. The business of foreign companies, on the other hand, representing 46 per cent. of the risks and 35 per cent. of the premiums, consists in very large measure of insurance on the cargoes of foreign vessels engaged in our foreign trade.

But foreign companies have by no means confined their activity to our Eastern coast, as might at first be supposed, but have boldly extended their business into the interior of the country, until to-day they control the greater part of the marine insurance business of the Great Lake region. This becomes apparent upon an examination of the insurance statistics as published by the Insurance Departments of Ohio, Michigan, Illinois, Wisconsin and Minnesota. A tabulation of these statistics shows that the nine principal American companies operating in these states (and they transact nearly all the business done by American companies), wrote \$160,345,676 of

marine risks in 1903; the local companies of these five states wrote only \$5,394,358; while the thirteen foreign companies which have entered these states wrote \$249,711,561. In other words, of the \$405,450,000 of marine risks assumed by all companies in the Lake region, foreign companies wrote 61.5 per cent. and received 53 per cent. of the total premiums collected.

In the Gulf region the influence of foreign companies is still more apparent, judging from the experience of the three leading commercial States of Alabama, Louisiana and Texas. In 1904 the marine insurance business transacted by all companies in these states aggregated \$308,508,895 of risks and \$1,648,000 of premiums. Of this business the local companies wrote only 4 per cent., while all American companies combined represented considerably less than one-fourth. Foreign companies, however, representing England and Germany, wrote over 75 per cent. of the risks and received nearly 83 per cent. of the total premiums.

What has been said concerning the gradual control of marine insurance by foreign companies on our Eastern coast and in the Lake and Gulf regions is true to an even greater extent on the Pacific coast. As illustrative of the situation here, California may be taken as the example, since over four-fifths of the insurance on the Pacific coast is written in this state. Thus a review of the last report issued by the Insurance Department of California shows that in 1903 forty-six companies were transacting a marine insurance business in that state, and that of this large number only seven were American companies, while thirty-nine represented foreign countries, nine being located in London, seven in Liverpool, seven in the leading ports of Germany, four in Hong Kong, three in Switzerland, two in Australia and New Zealand, two in Canada, two in Shanghai and one each in Paris, Tokio and Milan. Of the \$210,500,000 of marine risks written in California in 1903 only \$31,500,000 or 15 per cent. of the total was written by California companies, and only \$11,500,000 or 5.5 per cent. by companies of other states. On the other hand, the companies representing foreign countries wrote \$167,499,372 or 79.5 per cent. of the total risks, and collected 73 per cent. of all the premiums paid. Even in the State of Washington where the aggregate risk assumed by marine companies is as yet very small (only \$18,-

069,683<sup>17</sup> in 1903), and where two western companies, <sup>18</sup> the only American companies in the state, have had control of most of the business, eight foreign companies, representing England, Germany, Switzerland and Canada wrote nearly one-third of the business in 1904. These statistics show conclusively that the vast bulk of the marine insurance business on the Pacific coast is now controlled by foreign capital, and that American companies have gradually been forced out of business through undue competition. Local insurance capital and earnings have always been invested in buildings, mortgages, bonds, etc., of the state, subject to taxation, while foreign capital for many years, as President Fowler, of the Insurance Company of San Francisco, said in substance in 1891, "entered the State of California without any deposit or security to protect the policyholders, sending its earnings to the head office, and not contributing one dollar toward the expenses of the state and national government, thus transacting business in California upon more favorable and advantageous terms and conditions than local capital."<sup>19</sup> Under such circumstances, President Fowler points out, that it is not to be wondered at that by 1891 twelve California companies, with a paid-up capital of \$5,600,000 and with annual fire and marine premiums of \$10,000,000, had either failed or retired from business;<sup>20</sup> and this decrease in the number of local companies, be it noted, has continued so that while there were five California companies still in operation in 1891, that number has declined to only two in 1903. Moreover, most of the companies to which President Fowler referred had reinsured in foreign companies with the result that upon their retirement their business simply helped to increase the large volume of business already transacted in the state by foreign companies.

But while the number of foreign companies on the Pacific coast and the volume of their business has increased at the expense of domestic companies, it should be noticed that, despite the increasing importance of San Francisco and other Pacific ports, marine insurance as transacted by insurance companies has, as a whole, shown

<sup>17</sup> In addition to this amount marine brokers transacted \$3,591,485 of business for unauthorized companies during the year 1904, thus giving \$21,661,168 of net risk for the State of Washington in that year.

<sup>18</sup> Fireman's Fund Insurance Company (of San Francisco) and St. Paul Fire and Marine Insurance Company.

<sup>19</sup> For President Fowler's remarks, see William W. Bates' "American Marine," pp. 290-291.

<sup>20</sup> *Ibid.*



little tendency to increase for the last twenty years for the reason, as pointed out by the Insurance Commissioner of California, "that nearly all of the steamship companies owning vessels plying in and out of San Francisco are organized and controlled outside of the state, and the tendency of these corporations is either to carry their own insurance or place it outside of the State of California, while the coasting fleet is running practically without insurance. In addition much of the Oriental business is from and with Atlantic ports and is insured on the Atlantic side."

### *Conclusion.*

Viewing the marine insurance business of the United States in its entirety, it is clear that domestic companies are to-day entirely unable to meet American requirements. On the Eastern coast foreign companies claim nearly one-half of the business. The same is true to an even greater extent in the Lake region; while in the Gulf States and on the Pacific coast approximately four-fifths of the business is controlled by foreign capital. Even in our coastwise trade, the one branch of our commerce from which foreigners have been excluded by statute for nearly a century, the largest buyers of insurance place it almost half and half between domestic and foreign companies. Evidence before the United States Industrial Commission tends to show that the home market soon becomes exhausted, and that it is the practice of the principal shipping companies to take all the American insurance they can obtain, and to depend upon foreign underwriters for the rest.

Recently there has also been a marked tendency toward self-insurance. The International Mercantile Marine Company, for example, embracing some of the largest steamship lines leaving the port of New York, announces in its report of December 31, 1903, that "the company has inaugurated a system of insuring its own ships to a large extent, it being deemed that this could be done advantageously and safely with such a large fleet as the company commands" (138 ships). Under this system an insurance fund has been established into which gross premiums were paid in 1903, amounting to \$2,100,523.23, and against which all losses and premiums paid for additional insurance are charged. The insurance department of the company insures the vessels owned by the company against all the

marine risks usually covered by insurance companies, at the market rate for the various services. It also insures the risks on freight and passage money in connection with its own business, and follows the custom of underwriters in placing with regular insurance companies for its own protection a portion of certain large risks which it has assumed. The premiums paid in by the various steamship lines are placed in separate accounts with two banking houses, one in London and one in New York, and thus kept distinct from the company's operating transactions.

While this is the most notable recent example of self-insurance, it should be remembered that this method was practiced on a large scale many years ago. As early as 1867 we are informed by Mr. Hopkins, in his work on marine insurance of that date, that the Peninsular and Oriental Steamship Company possessed not only an insurance system for its fifty-three large steamships, but also insured its passengers, baggage and effects, and issued policies on goods. I am informed by the managers and officers of the largest steamship lines that self-insurance is practiced extensively by their companies in one form or another. While the coast-wise lines and the smaller trans-oceanic lines depend almost entirely upon marine insurance companies for their insurance, it is a fact that in the case of such lines as the great German steamship companies nearly all the insurance is carried by the companies themselves. It is the general rule, however, followed by the German lines as well as the International Mercantile Marine Company, that they refrain from insuring the cargo, and permit this risk to be covered by marine insurance companies.

## POLICY CONTRACTS IN MARINE INSURANCE

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BY SOLOMON HUEBNER.

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A contract of marine insurance has been defined as "a contract of indemnity, in which the insurer, in consideration of the payment of a certain premium, agrees to make good to the assured all losses, not exceeding a certain amount, that may happen to the subject insured, from the risks enumerated or implied in the policy, during a certain voyage or period of time."<sup>1</sup> It is essential in a marine policy that the parties to the contract shall have undertaken the transaction in good faith. This is true of all contracts, but especially so of a contract of marine insurance where the risks assumed are not only very numerous, but also very complex in their nature. Moreover, all material facts must be stated to the underwriter, and fraud of any kind will nullify the policy. The misrepresentation or concealment of material facts with a view, for example, to deceive or influence an underwriter into accepting a risk or in fixing the premium will deprive the offending party not only of any premiums paid, but of all rights accruing from the policy.

Equally essential to the validity of a marine insurance policy is the requirement that the insured shall actually possess an insurable interest in the subject insured. Such an interest, however, need not necessarily represent ownership. As Mr. Justice Lawrence defined it: "To be interested in the preservation of a thing is to be so circumstanced with respect to it as to have benefit from its existence, prejudice from its destruction. The property of the thing and the interest derived may be very different. Of the first, the price is generally the measure; but by interest in a thing every benefit and advantage arising out of or depending on such thing may be considered as being comprehended."<sup>2</sup> This definition would seem to indicate that anyone pecuniarily interested in the safe arrival of a vessel or cargo

<sup>1</sup> John Duer. "Law and Practice of Marine Insurance." Vol. I., p. 58.

<sup>2</sup> Marine. William Gow, "Marine Insurance." Second Edition, p. 77.

has an insurable interest in the same. A mortgagee has an interest in a vessel to the extent of his mortgage which he may insure. A trustee or bailee possesses an insurable interest in property entrusted to him, as also does a consignee of goods who has advanced money against their value. Advances made for repairs to a ship at a port of refuge, which are to be repaid at the close of the voyage out of the ship's cargo and freight, give rise to an insurable interest. Those concerned in any profits to be derived from a venture have an insurable interest in them; and among the numerous other ways, besides ownership, in which an insurable interest may exist in a given subject, it is almost needless to state, is the interest which the marine underwriter, himself, possesses in the risks he has underwritten, and which he very frequently finds it desirable to re-insure.

Summarizing, then, the essential features of a marine insurance policy (following Mr. Gow's outline), it may be described as:

- "(1) A contract of indemnity;
- (2) Made in good faith (*in uberrima fide*);
- (3) Referring to a defined proportion;
- (4) Of a genuine interest in a named object;
- (5) Being against contingencies definitely expressed, to which that object is actually exposed;
- (6) And in return for a fixed and determined consideration."<sup>2</sup>

#### *Various Kinds of Policies.*

Directing our attention next to an examination of the various types of policies in use, we find that numerous titles are employed to designate them according to the subject matter insured. Thus among the various types of policies issued by American companies there are so-called "vessel policies," "vessel and freight policies," "cargo policies," "steamboat policies only," "tug policies," "stranding or collision policies only," "lighterage policies," "yacht policies," "whaling and fishing policies," "canal hull policies," "river cargo policies," "lake cargo and vessel policies," "cotton policies," "builders' policies," etc. While a comparison of these numerous policies in different companies shows that scarcely two are exactly alike, yet a closer examination, whether we regard vessel, cargo or freight policies, will indicate that they have all been adapted to the particular

<sup>2</sup> William Gow. "Marine Insurance." p. 11.

risk from a common form, and that, despite variations, the printed form of the contract is approximately the same as regards essential particulars. The only real difference exists in the adaptation of the contract to meet certain particular conditions and not in the essential form or content of the document itself.

As special circumstances may render one form of policy more desirable than another, marine policies may also be conveniently grouped into four classes according to the nature of the risk assumed, or the manner in which the policy is executed. Briefly stated, this four-fold classification depends, first, upon the manner in which the value of the subject matter of the insurance is expressed in the policy; second, upon the absence or presence in the policy of the name of the vessel which is to make the voyage; third, upon the period of time during which the risk is covered; and, fourth, upon the interest of the policyholder in the subject insured.

Under the first classification the policy may be either "valued" or "open;" a valued policy being one which stipulates some agreed value (not necessarily the real value) such as \$1,000 worth of goods or a ship worth \$50,000; and an open policy, on the contrary, being one which omits to specify the value of the subject insured, but leaves this to be ascertained when a loss occurs. The only real difference between the two is that in case of total loss, in the absence of fraud, the valued policy entitles the insured to receive the value specified in the policy without proving the loss, while the open policy makes necessary an adjustment as proof of the loss incurred. In case of partial loss, however, this difference does not exist, since the same adjustment must be made, irrespective of whether the policy is open or valued.

Similar to the two types of policies just named is the second classification, namely, that referring to the presence or absence in the policy of the name of the vessel for a particular voyage. Under this classification policies may be either "floating" or "named." By a floating policy is meant one which describes the limits of the voyage, the value of the property insured and the type or class of vessel to be employed, but does not specify any particular vessel. The policy, in other words, is stated to apply to any "ship or ships." The wording is thus made sufficiently broad to enable a merchant to insure his goods before he is able to ascertain the name of the vessel on which they will be shipped, or to give him protection in case of

loss before he is able to make a specific insurance. As soon, however, as the name of the vessel employed on the voyage becomes known to the insured, this information, together with any important attending facts, is "declared" to the underwriter and "endorsed" on the policy, thus making it a "named" policy instead of a "floating" one.

Under the third group there may be either "voyage" or "time" policies, the first denoting insurance for a specified voyage, as from New York to Liverpool, and the second referring to insurance for a period of time, usually one year. Lastly, we may have what is called an "interest" policy, or one clearly indicating that the insured possesses a true and substantial interest in the subject matter of the insurance, such as one hundred bales of cotton or a thousand bushels of wheat. In contrast to this type of policy is the "wager" policy, exceedingly novel in form, and of very limited use. As its name implies, it clearly shows that the holder has no insurable interest in the property covered by the policy, or that the underwriter, at least, will not demand proof of the same. One of the cardinal principles of insurance law is that an insurance policy, to be valid, must represent an insurable interest on the part of the insured. Hence in a wager policy it is customary to insert such expressions as "interest or no interest," "policy proof of interest" and the like, which mean to signify that by common agreement between underwriter and insured, the latter is entitled to the payment provided in the policy upon the loss of the subject insured, irrespective of the fact that he has no strictly insurable interest in the same. Owing, however, to the universal observance of the principle of insurable interest, it would be very difficult to collect on such a policy in any American court. In England, where such policies have been declared void by statute, they still continue to exist to a limited extent; their fulfilment, however, resting on the basis of so-called "honor" agreements.

#### *Summary of Provisions in American Policies.*

Marine insurance, as already noted in connection with the discussion of Lloyd's policy, has had a development of several centuries. Though introduced several hundred years ago, Lloyd's policy still furnishes illustrations of the quaint language of earlier days, and affords a just basis for the characterization, often made, that it is an

"incoherent and antiquated instrument." Yet, whatever may be said against the policy, because of its poor adaptation to the needs of modern commerce, is largely counterbalanced by the advantage of the certainty in meaning and the stability in marine transactions, which become possible through the use of a policy which has back of it several centuries of legal decisions, and which has acquired a more and more definite meaning until to-day nearly every word it contains has been interpreted by the courts. It is this desire to have a definite and interpreted document as the basis of marine insurance transactions which has, no doubt, been largely responsible for the fact that numerous features of Lloyd's policy have been incorporated and retained in American policies, and that the policies of the various companies should tend toward a fair degree of uniformity. Many important changes, it is true, have been introduced into American policies as compared with Lloyd's form, yet in some important particulars, like the enumeration of the perils against which insurance is taken, the influence of Lloyds is still clearly apparent.

In discussing the provisions of the marine insurance contract, as exhibited by an examination of the policies of nearly every American company of any importance, they may be conveniently grouped under the following six heads, viz., those which:

- (1) Describe the general character of the subject matter insured, and the voyage to be undertaken.
- (2) State the perils insured against.
- (3) Refer to the losses arising from the perils against which protection is granted.
- (4) Determine the liability of the underwriter in case other insurance exists on the same subject matter.
- (5) Aim to protect the underwriter against fraud, unnecessary loss or undesirable risks.
- (6) Have reference to "warranties" and "representations," and
- (7) Express agreements in the form of "clauses" or riders.

#### *The General Character of the Risk Assumed.*

The general description of the subject matter insured, and the character and duration of the voyage are usually set forth in the opening words of the policy. No uniform wording has been adopted by all the companies in this respect, yet as representative of the con-

ditions usually provided, the following form is given as typical of American vessel policies:

BY THE ..... INSURANCE COMPANY.

.....on account of .....

In case of loss, to be paid to

Do \_\_\_\_\_ make insurance, and cause \_\_\_\_\_ to be insured, lost or not lost,  
at and from the \_\_\_\_\_ day of \_\_\_\_\_ 190\_\_\_\_\_, at noon, until the  
day of \_\_\_\_\_ 190\_\_\_\_\_, noon.

If on a passage at the expiration of the term, with liberty to renew the policy for one, two or three months, at the same rate of premium, if application be made to the company on or before the expiration of the first term. The risk, however, is to terminate at any port at which she may first arrive during the said extended time, on her being moored therein twenty-four hours in good safety; a pro rata premium to be returned for each entire month not entered of the extended time, there being no loss or other claims made. (Then may follow certain warranties and agreements.)

upon the body, tackle, apparel and other furniture,  
of the good                                  called the  
whereof is master for this present voyage,                                  or whoever else  
shall go for master in the said vessel, or by whatever other name or names  
the said vessel, or the master thereof, is or shall be named or called.

And it shall and may be lawful for the said vessel, in her voyage, to proceed and sail to, touch and stay at, any ports or places, if thereunto obliged by stress of weather or other unavoidable accident, without prejudice to this insurance. The said vessel, tackle, etc., hereby insured, are valued at

without any further account to be given by the assured, to the  
assurers, or any of them, for the same.

In the case of cargo and freight policies, while the form is similar to that mentioned above, the following provision is usually made with reference to the beginning and termination of the risk: "Beginning the adventure upon the said goods and merchandise as aforesaid, from and immediately following the loading thereof on board the said vessel, and to continue during the voyage aforesaid, until the property is landed."

The first features to attract attention in the above extract are the two expressions, “lost or not lost” and “at and from.” Both were introduced very early into marine policies and both serve a



distinct purpose. The object of the first originally was, no doubt, to provide for those cases where the safety of a vessel was feared because of its having long been overdue and unheard from (a very common occurrence before the introduction of steam power, the telegraph and modern postal communication), and where insurance was therefore especially desired. Such cases occur to-day, and it also frequently happens that the owner of goods may have them exposed to the perils covered by a marine policy before he knows of their having been shipped, or before he has had opportunity to insure them. The real object of the phrase, then, is to have the policy cover a risk irrespective of the condition or position in which the ship or cargo may be at the time when the insurance is effected. To make the contract valid, however, both insured and underwriter must be in possession of the same facts, and neither must have knowledge concerning the condition of the risk.

In explanation of the second phrase, "at and from," it is important to note that there is a decided difference between insuring a ship and cargo "from" a port and insuring it "at and from" that port. The first insurance would cover a vessel, for example, only from the moment when it departs on her voyage, while the "at and from" insurance would cover the vessel not only while on the voyage but also at the port of departure before leaving. In case this is the home port, the insurance takes effect as soon as placed, and protects the vessel during the period of preparation for the voyage. In case the port is one to which the vessel has not yet arrived the insurance commences with the arrival of the vessel at that port if in safe condition.

Following the expressions just noted there are blank spaces for the insertion of the voyage, the period of time over which the insurance extends, the name of the vessel, and the general description and valuation of the subject matter insured. The presumption is that the voyage will cover the usual route and will be prosecuted without delay. If the policy is a time policy the date and hour when the insurance commences and ends must be specifically stated. In the case of goods and merchandise, it is expressly provided, that the policy covers immediately after they are loaded on board the vessel and continues during the voyage until safely landed. But where it is necessary to employ lighters in the process of loading, the risk of lighterage, except where otherwise provided, is also covered. In the case of a vessel the insurance either commences "from" or "at and

from" a port, and ends twenty-four hours after the arrival and safe mooring of the same at the port of destination. With respect to freight (the earnings of the ship for conveying the cargo) the insurance covers from the port of loading to the time when the cargo is safely landed; while in the case of a charter the insurance begins when it is effected and continues, irrespective of the fact that the vessel must load at another port, until the landing of the cargo.

With respect to the valuation of the subject matter insured two cases may arise. First, where the value is agreed upon, it cannot be reconsidered, unless a clearly proved mistake has been made or the relation of the assigned value to the real value is such as to afford just grounds for suspecting the existence of fraud or wagering. Where, however, the value is not stated in the policy, as in open and floating policies, it must be proved. In all such cases the insurable value attaching to various interests is ascertained in England and America on the following basis, subject, of course, to any provisions expressed in the policy:

"(a) Goods or merchandise: the prime cost (say invoice cost) plus shipping expenses and cost of insurance.

(b) Ship: the value at the commencement of the voyage, including the outfit, stores and provisions for crew, advances made against crew's wages and cost of insurance.

(c) Freight: the gross freight due to the ship on her arrival abroad plus cost of insurance.

(d) Other objects of insurance: the value to the assured at the commencement of the voyage plus cost of insurance."<sup>4</sup>

### *The Perils Insured Against.*

Immediately following the general description of the adventure, the marine insurance policy specifies the perils against which protection is granted. In the policies of a few American companies, including the most important company, the enumeration corresponds exactly with the quaint enumeration of Lloyds, namely: "Touching the adventures and perils which the said . . . Insurance Company is contented to bear, they are of the seas, men-of-war, fires, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, reprisals, takings at sea, arrests, restraints and detainment of all

<sup>4</sup> William Gow. "Marine Insurance." p. 67.

kings, princes or people of what nation, condition or quality soever, barratry of the master and mariners, and all other perils, losses and misfortunes that have or shall come to the hurt, detriment or damage of the said vessel (or goods) or any part thereof." Most American policies, however, while retaining the language of the above clause in other respects, omit the specification of all perils except those of the sea, fire and barratry, and assume liability for all losses "to which the insurers are liable by the rules and customs of insurance in name of port, subject to the conditions and provisions contained or referred to by clauses in this policy." In the case of some companies, especially those insuring inland risks, the policy grants protection against the perils of the lakes, rivers, canals, railroads and all other losses or misfortunes except those arising from carelessness or lack of skill in loading or stowing the cargo or in navigating the vessel, or from other legally excluded causes.

A closer examination of the marine perils against which insurance is granted will show that they may be divided into four main classes, viz.: (1) those perils which have been appropriately called the "perils of nature," such as the "perils of the sea" and fire; (2) those enumerated perils which we associate with the conduct of those aboard the vessel, as jettison and barratry; (3) perils arising from the conduct of those not aboard the vessel, such as enemies, pirates, men-of-war, etc.; and lastly, (4) those perils referred to in the terminal clause, and including "all other perils, losses and misfortunes that have or shall come to the hurt, detriment or damage" of the vessel or cargo. Of these perils many are self-explanatory and require no comment. Many, though very important at one time when travel was slow and dangerous and commerce subject to piracy and privateering, have become relatively unimportant to-day, owing to the introduction of the telegraph, modern postal communication and the numerous other changes which have completely revolutionized commercial facilities and methods. Four of the perils mentioned, however, may require a few words of explanation, namely, the "perils of the sea," fire, jettison and barratry.

The first term, it is important to notice, does not include all casualties that may happen to a ship or cargo on the sea. Not only must the loss be incurred in consequence of some peril which is *of* the sea, but, even where this is the case, it must be the result of an unforeseen occurrence, *e. g.*, an accident. It must not be in conse-

quence of occurrences which are inevitable in all navigation, such as the wear and tear produced by the wind and waves, or the inherent defects and natural deterioration of certain classes of articles. According to Phillips the term "perils of the sea" "comprehends those of the winds, waves, lightning, rocks, shoals, collision and, in general, all causes of loss and damage to the property insured, arising from the elements and inevitable accidents."<sup>5</sup> Likewise in the case of fire, the underwriter is liable for all losses arising from it, provided only that the cause was accidental and not brought about by any action of the insured for which he is considered responsible. Among the many causes of fire covered by the policy are lightning, spontaneous combustion and the damaged state of the cargo.

Jettison consists of "the throwing overboard of a part of the cargo, or any article on board of a ship, or the cutting and casting away of masts, spars, rigging, sails or other furniture for the purpose of lightening or relieving the ship in case of necessity or emergency."<sup>6</sup> This definition does not cover those cases where goods are jettisoned because of natural deterioration or inherent defects. Nor does it cover jettison of property due to the negligence or default of the owner; nor of deck cargo, except where expressly permitted in the policy.

Barratry, on the other hand, "comprehends not only every species of fraud and knavery covinously committed by the master with the intention of benefiting himself at the expense of his owners, but every wilful act on his part of known illegality, gross malversation, or criminal negligence, by whatever motive induced, whereby the owners or the charterers of the ship are, in fact, damnified."<sup>7</sup> As coming under barratrous acts, may be mentioned the scuttling of a ship, wilfully destroying or injuring a ship by running it ashore, setting it on fire, or abandoning it, or selling a vessel or deviating it from the true course of travel with the object of obtaining gain in some way. To constitute barratry, however, it is essential that these acts should be done against the better judgment of the ship-master and without the knowledge and consent of the owner.

Turning now to the terminal expression covering "all other perils, losses and misfortunes, etc.," it would seem that the under-

<sup>5</sup> Willard Phillips. "A Treatise on the Law of Insurance." Vol. I, p. 635.

<sup>6</sup> Frederick Templeman. "Marine Insurance: Its Principles and Practice." p. 33.

<sup>7</sup> Joseph Arnould. "On the Law of Marine Insurance." Vol. II, p. 952, Sec. 839.

writer is liable for losses arising from all causes not specifically mentioned. Apparently this phraseology includes all possible perils. Yet the real intent of the policy is to limit the liability of the insurer to losses resulting from causes similar to those enumerated before, *e. g.*, to those losses which are due only to accidental causes connected with the sea and which result from the action of the elements or from other overpowering and unavoidable occurrences, and not from any inherent defect of the subject insured or from natural causes such as deterioration, wear and tear, etc., in so far as they are inevitably associated with the usual prosecution of the journey.

### *The Losses Arising from Marine Perils.<sup>8</sup>*

Having discussed the nature of the perils against which protection is granted, it is desirable that we should next inquire into the form which the losses arising from such perils may take, and the extent which the underwriter's liability may assume. Here we meet with a number of terms which appear again and again in a discussion of marine policy provisions, and which should, therefore, be now explained. These terms refer (1) to "total loss," which may be either "actual total loss" or "constructive total loss, and which involves a discussion of "abandonment"; (2) "general average"; (3) "particular average"; and (4) "salvage."

1. *Total Loss.*—"Actual total loss," as the term suggests, has reference to those cases where the subject matter of the insurance is completely destroyed or "missing," or is so badly damaged as to be of little or no value to the insured, or is taken out of the possession of the insured so as to completely deprive him of its use. "Constructive total loss," on the other hand, has been defined as occurring "when the subject insured, though existing in specie, is justifiably abandoned on account of its destruction being highly probable, or because it cannot be prevented from actual total loss, unless at a cost greater than its value would be if such expenditure were incurred."<sup>9</sup> To illustrate this definition we need only refer to a vessel which, having run upon rocks, has been but slightly injured and only requires to be released. Yet the cost of freeing her from her position

<sup>8</sup> For a brief and accurate account of what the various losses in marine insurance comprise in the case of ship, cargo and freight, see Frederick Templeman's "Marine Insurance: Its Principles and Practice." London, 1903.

<sup>9</sup> Frederick Templeman. "Marine Insurance: Its Principles and Practice." p. 45.

may be so large when compared with her value afterwards, that the attempt can only be characterized as a commercial failure. Hence it is that this and all similar cases are technically termed "constructive total losses;" and, if the facts of the case warrant it, the interests of the insured demand that he should give the underwriter of the risk what is called a "notice of abandonment." By this is meant that the insured claims payment for a total loss, and is willing to surrender to the underwriter all that remains of the property insured. If the underwriter accepts this notice of abandonment, he will pay the total valuation stated in the policy, and will seek, if practicable, to reimburse himself, at least in part, by recovering as much as possible of the property thus abandoned.

In the case of the vessel, "constructive total loss" exists whenever the cost of saving her from her position plus the cost of repairing her damages would exceed the value of the vessel when thus restored. In the case of a cargo such a loss may be declared when the goods fail to arrive at the port of destination, and when the cost of restoring any loss or damage and of forwarding the cargo to its final destination amounts to more than the goods are worth after thus repaired and forwarded. Lastly, in the case of freight, "constructive total loss" exists when the vessel or cargo is in such condition that to save the freight from actual total loss would require an outlay greater than the value of the freight would be after such expenditure is incurred. In all these cases it must always be remembered that both insured and underwriter must act without undue delay in giving and accepting the notice of abandonment, and that neither may wait to form an opinion by observing developments.<sup>10</sup>

2. *General Average*.—Turning next to a consideration of partial losses, the subject which claims our special attention is that of "average," which involves a discussion of the terms "general average" and "particular average." General average may be defined as covering all those losses which result from the sacrifice of any interest voluntarily and deliberately made by the master of a vessel in time of distress for the common safety of the ship, cargo and freight, and which must be repaid proportionately by all the parties benefited. Justice demands, for example, that if a shipowner cuts away his masts and sails, or voluntarily strands his vessel, or incurs expenses by putting into a port of refuge for the

<sup>10</sup> Frederick Templeman. "Marine Insurance: Its Principles and Practice." p. 45.

sake of preserving the cargo, he should not be obliged to bear the loss alone. Likewise, if an owner's cargo is sacrificed in quenching a fire aboard the vessel, or is thrown overboard to save the ship and cargo, it would be grossly unjust to make that owner stand all the loss. Hence the introduction of the principle that all such sacrifices should be compensated for by making them a charge upon the value of all the other interests involved.

In the case of the vessel a loss in general average exists only when any part has been destroyed in time of danger for the common safety, or when for the same reason it has been put to a use for which it was not intended. The cutting away and throwing overboard of masts, spars and sails, or the injuring of a steamer's propeller while attempting to extricate her from a dangerous position are a few of many illustrations that might be mentioned. While very complex cases for settlement may arise, which cannot here be discussed, the amount ordinarily collected in general average in all such cases is the reasonable cost of repairs, after deducting the customary allowance (usually one-third) which is granted as a commutation for the difference between old and new repairs. In the case of the cargo the amount allowed usually equals the net value which the goods would have brought when discharged, after deducting the charges for freight, landing, etc., which would have been incurred had the goods not been lost. If, however, the goods are merely damaged, the amount allowed is the difference between the net proceeds when sold and the value which they would have had if undamaged. When freight is lost the sum allowed ordinarily consists of the gross freight which the vessel would have earned had the goods been saved, after deducting (1) those charges which would have been incurred in order to carry the freight had the goods been saved, and (2) any freight which may be earned by carrying goods which are substituted at a port of call in place of those which were sacrificed. The various amounts thus ascertained are then levied upon the value of all the interests which were saved from destruction by the general average act. The ship, in case it is one of the contributory interests, contributes on the value she possesses upon arrival at port; the freight contributes on the net amount of freight saved; while the cargo contributes upon its net value at the port of landing. The guiding principle in making all these contributions is that the person whose goods were sacrificed should be placed exactly in the same

position as he would be if the goods of some other person had been sacrificed for the common safety instead of his own. To bring this about it is necessary that the sacrificed interest should also contribute its proper share. To return the sacrificed interest in full without claiming the proper contribution would mean placing the owner of the same in a favored position, since he would recover his property in full, while the other owners would be asked to make a contribution. Thus assuming the ship, cargo and freight were worth, respectively, \$50,000, \$25,000 and \$1,000, and that \$5,000 of this has been jettisoned, the following apportionment of general average would be made:

Total value contributing .....	\$76,000	contributing to a loss of ..	\$5,000
Property saved .....	71,000	contributes $\frac{11}{16}$ of \$5,000 or	4,671.06
Property jettisoned .....	5,000	contributes $\frac{6}{16}$ of \$5,000 or	328.94
Ship valued at .....	50,000	contributes proportionately	
		or .....	3,289.47
Cargo, net value .....	25,000	contributes proportionately	
		or .....	1,644.74
Freight, net amount .....	1,000	contributes proportionately	
		or .....	65.79

In the foregoing discussion it should always be remembered that the liability for general average contribution and the right to claim it are matters which are entirely independent of marine insurance. If no insurance exists on any of the property involved, the respective owners must bear the contributions themselves. If, however, the property sacrificed is insured, then the underwriter becomes liable for the insured value, and by paying the same comes in possession of the right to receive the sums allowed in general average after deducting the contribution which applies to the interest he now represents. Moreover, if the contributing interests are insured, the underwriter is also liable for general average damage. But in determining the extent of his liability for such contributions, the insured value of the property must be taken into account. If the insured value is equal to the value of the contributing interests, the underwriter pays all the general average contributions; but if it is less, he only pays the contribution in the proportion which the insured value bears to the contributory value.

3. *Particular Average*.—This term comprises all partial losses occurring to the ship, cargo or any other interest in consequence of marine perils, and which do not come under general average. While



general average refers to losses arising from voluntary sacrifice, particular average almost invariably refers to losses resulting from accident. No sacrifice is made in particular average for the common benefit; no claim can, therefore, be made for compensation by general contribution. The loss must fall exclusively upon those who own or have an interest in the property lost or damaged, unless the same is insured, in which case restitution must be made by the underwriter.

Generally speaking, the underwriter's liability for particular average on hulls is measured by the reasonable actual cost of repairs after deducting "one-third new for old" (the allowance frequently made as a commutation of new for old), and after crediting the underwriter with the value of the old materials. In the case of a damaged cargo the liability is usually represented by the difference between the gross sound value of the goods and the gross proceeds obtained from their sale, the percentage of loss thus ascertained being then applied to the amount of insurance carried. In the case of freight the underwriter's liability is based on the insured value of the freight, and varies in proportion to the extent that the cargo is lost.

4. *Salvage*.—By salvage in marine insurance is meant the reward granted by law for services in saving life and property at sea. To be a true case of salvage, the service must have been of material assistance in saving the property, and must have come from third parties. The sum payable for the service is usually apportioned over the values of the various interests saved just as in the case of general average, and is recovered from the underwriter in exactly the same manner, provided the contributing interests are insured.

#### *Other Insurance Upon the Same Subject Matter.*

Closely connected with the subject of losses arising from the perils covered by marine insurance is that referring to the liability of the underwriter where the same subject matter has been insured with two or more companies. In England this problem is solved by granting the insured the right to collect indemnity from whichever policy he pleases, the underwriters on this policy in turn possessing the right to collect a ratable contribution from the other underwriters who insured the same risk. Thus where, without intention

to commit fraud, the same value is insured with two companies, the insured may collect the whole loss from one company, which in turn will collect from the other one-half the sum thus paid. Where the sum insured is not the same for both underwriters, the case is considered one of double insurance of the amount represented by the smaller of the two policies. In cases of triple or other multiple insurance, which is apt to happen where buyers, sellers, shippers and other interested parties may insure the same interest without knowledge of one another's action, the same principles apply as in the case of double insurance.

As compared with the above rules, the practice in the United States is totally different. Instead of permitting the insured to collect from any policy he may choose, the liability of the underwriter depends upon the date of his policy. If his policy is the first one taken and covers the value of the interest, then it alone must bear the loss. Only when the amount insured by the first policies fails to cover the value of the interest lost, do the later policies become contributors. In accordance with this principle practically all American policies provide that "it is hereby agreed, that if the said insured shall have made any other insurance upon the property aforesaid, prior in date to this policy, then the said insurance company shall be answerable only for so much as the amount of such prior insurance may be deficient towards fully covering the property hereby insured, and the said insurance company shall return the premium upon so much of the sum by them insured as they shall be by such prior insurance exonerated from; provided no return premium shall be made for any passage whereon the risk has once commenced. And in case of any insurance upon the said property subsequent in date to this policy, the said insurance company shall nevertheless be answerable for the full extent of the sum by them subscribed hereto, without right to claim contribution from such subsequent insurers, and shall accordingly be entitled to retain the premium by them received, in the same manner as if no such subsequent insurance had been made." Most American policies also stipulate that "other insurance upon the premises aforesaid, of date the same day as this policy, shall be deemed simultaneous herewith, and the company shall not be liable for more than a ratable contribution in the proportion of the sum by them insured to the aggregate of such simultaneous insurance."

*Policy Provisions Protecting the Underwriter Against Fraud, Unnecessary Loss and Undesirable Risks.*

Having seen how the liability of the underwriter is determined in case the same property is insured with several companies, let us now examine those other policy provisions which aim to safeguard his interests. Much the larger portion of every policy consists of agreements with this special object in view. In fact, the number of such provisions (excluding "clauses" or riders which will be discussed later) in the policies of the leading American companies, is so large that if we should attempt a complete compilation at this time a full statement of the same would be clearly impossible. It will be endeavored, therefore, to present only those provisions which are constantly met with in an examination of the various types of policies issued by the principal companies. In doing this it is convenient to group them under the following heads:

1. *The "Sue and Labor" and "Waiver" Clauses.*—The universal employment of these clauses in marine policies justifies their reproduction in full, namely: "And in case of any loss or misfortune, it shall be lawful and necessary for the insured, his or their factors, servants or assigns, to sue, labor, and travel for, in and about the defence, safeguard and recovery of the said property, or any part thereof, without prejudice to this insurance; to the charges whereof the said insurance company will contribute in proportion as the sum insured is to the whole sum at risk; and the acts of the insured or insurers in recovering, saving and preserving the property insured in case of disaster, shall not be considered a waiver or acceptance of an abandonment." The insured, in other words, practically agrees to exert himself in preventing or minimizing the loss of the insured property in the same manner that he would if uninsured. The underwriter, in turn, promises to bear all expenses thus honestly and prudently incurred by the insured in a proportion such that, if the policy covers the full value of the interest, he will pay all "sue and labor" charges. Both insured and underwriter then agree that no act of theirs, coming under the "sue and labor" clause, shall constitute a waiver or an acceptance of an abandonment.

2. *The "Memorandum."*—This clause may be defined as consisting of an enumeration of articles, arranged in groups, concerning which there is a limitation of the underwriter's liability for par-

ticular average. In its original form Lloyd's policy placed no limit upon the liability of the insurer. The development of the marine insurance business, however, and the growing complexity of commerce soon demonstrated that some limitation was essential. Hence in 1749 a clause called the "memorandum" was inserted, according to which the most important articles of trade were classified into three groups, and each group subjected to a definite limitation as regards the liability of the underwriter. A similar limitation was introduced in American policies in 1840, and to-day the memorandum is a conspicuous feature in every cargo policy. Indeed, so detailed has the memorandum become in some cases that in the policy of at least one important American company it limits the liability of the insurer with respect to one hundred and twenty specified articles or classes of articles. Changes have been made from time to time in the memorandum to meet the needs of commerce in different places, so that no uniformity can be claimed in respect to the articles enumerated in different policies. As illustrative, however, of the classes into which commodities are grouped, the following is given as the general form:

*Memorandum.*—It is agreed that bar, bundle, rod, etc., etc., ..... are warranted by the assured free from average, unless general; cassia, matting, etc., ....., free from average under 20 per cent., unless general; East India hemp, etc., ..... free from average under 10 per cent. unless general; bread, flax, etc., ..... free from average under 7 per cent., unless general. Agricultural implements, etc., ..... warranted free from claim or for any breakage, but liable for a total loss of a part if amounting to 5 per cent.

In ascertaining whether the memorandum percentages have been reached no consideration can be given to general average; nor can extra charges for proving the claim or making the survey be included in the loss in order to obtain the percentage. Regard can be had only to particular average, and if the claim here exceeds or equals the percentage mentioned, then the whole damage (not merely the excess) plus the extra charges must be borne by the underwriter. If, however, the actual value exceeds the insured value, the underwriter pays only a proportionate part of the charges, otherwise he pays all; while all charges incurred for saving and preserving the property are recoverable, as we have seen, under the sue and labor clause. In voyage policies it is permissible to make the insurer

liable by combining successive losses, each of which is less than the stipulated percentage. On the other hand, in time policies only the losses of one round voyage can be combined to determine the percentage, and not all losses incurred during the whole period covered by the policy. Moreover, in view of the increasing size in vessels and cargoes, it soon became apparent that although the percentage mentioned might be small, the absolute loss represented thereby might be unduly large (\$5,000, for example, on a cargo of \$50,000 under the 10 per cent. limitation). Consequently it has become common to subdivide risks as regards the application of the percentages. Thus, a cargo may be subdivided into "series," each "series" depending on the nature of the subject matter (as a certain number of bales for cotton or chests for tea, etc.), and the underwriter made liable where the loss in respect to one of these series reaches the proper percentage. Likewise, in the case of a vessel, separate valuations are often introduced for the hull, machinery, etc., with provision that the percentage rule should apply to each valuation separately.

Closely resembling the agreements in the memorandum are the provisions (some of which are at times included in the memorandum) usually found in policies and which grant exemption:

(a) From loss to goods "by dampness, rust, change of flavor, or by being spotted, discolored, musty or mouldy," unless caused by contact with sea-water and occasioned by sea perils.

(b) From loss by wet or exposure of goods shipped on deck; or for leakage of certain liquids like oils, molasses, etc., unless caused by stranding or collision.

(c) From loss of freight on articles like ice and lime, unless the entire quantity be destroyed because of stranding, sinking or fire; nor for loss of the articles themselves, unless occasioned by jettison, stranding, sinking or fire.

(d) From loss of specie, bullion, jewels, bank notes, deeds and the like, by providing that they "are not deemed to be included in any insurance unless specially mentioned in the policy and scheduled."

(e) From partial loss or particular average on a vessel unless amounting to a certain percentage, usually 5 per cent. net, of the value declared, exclusive of expenses in adjusting and proving the loss.

(f) From loss of freight or other interest than the vessel, unless amounting to 5 per cent. net, exclusive of expenses.

(g) From loss on account of wages or provisions, except in general average when customary.

(h) From loss occasioned by jettison of deck cargo.

(i) From loss by breakage or derangement of machinery or bursting of boilers, unless caused by stranding, collision or fire.

3. *Subrogation*.—This is the right by which an underwriter becomes entitled to all rights and remedies which the insured himself could have exercised in respect to any loss. This right is always granted in marine policies, and the usual wording of the clause is as follows: "In case of loss under this policy it is expressly stipulated that the insurers shall be subrogated to all rights of the insured against any persons or corporations whose acts, negligence or default may have caused or contributed to the loss."

4. *Provisions Facilitating the Adjustment of Claims*.—Among such provisions most frequently used in American policies are those which stipulate:

(a) That in case of loss the company's agent must be represented on the survey if there be one at or near the place, and if not, then an agent of the National Board of Marine Underwriters, which agent must approve all bills for repairs or expenses.

(b) That in case of any dispute arising with reference to a loss on the policy, the matter may be submitted to arbitrators mutually chosen, whose award shall be final.

(c) That the insured shall give immediate notice of loss, together with an account of all known particulars and attending circumstances.

(d) That the company shall have free access at all reasonable hours to the books, accounts, instructions and correspondence relating to shipments and receipts covered by the policy.

5. *Statement of Acts Which Render the Policy Void*.—In addition to the general principle, already noted, that the misrepresentation or concealment of any material fact will vitiate a policy, it is customary in most policies to declare the contract void for one or more of the following reasons:

(a) "In case of any agreement or act, past or future, by the insured, whereby any right or recovery of the insured, against any persons or corporations, is released or lost, which would on accept-

ance of abandonment or payment of loss by this company, belong to this company but for such agreement or act, or in case this insurance is made for the benefit of any carrier or bailee of the property insured, other than the person named as insured."

(b) In case the policy, or the interest thereby is sold, assigned, transferred or pledged, without obtaining in writing the previous consent of the insurers.

(c) If any claim for loss arising under the policy is not prosecuted within one year from the date of happening.

(d) If a vessel upon a regular survey should be declared unseaworthy on account of being unsound.

6. *Miscellaneous*.—Under this head may be grouped the many scattered provisions, clauses and warranties which are found in examining a large number of policies. To enumerate them all is quite impracticable, and it will be endeavored, therefore, merely to indicate their nature by giving the principal groups under which they may be classified. In the main these groups are seven in number, and include:

(a) Those provisions which exempt the underwriter from loss arising from capture, seizure, detention or other acts of force; or which protect the underwriter from loss on account of illicit trade or trade in contraband of war; or which forbid abandonment except under certain specified conditions.

(b) Those exempting the underwriter from the payment of certain losses and expenses; or from paying certain repairs, such as the customary deduction of one-third from the cost of all repairs on a vessel, except where otherwise provided, as a commutation for the average difference between new and old.

(c) Those which forbid the insured to use certain ports, routes of travel, or areas of water, or else limit their use to certain months in the year.

(d) Those which prohibit, restrict or otherwise regulate the carrying of certain articles.

(e) Those referring to the collection or return of the premium, such as the right to cancel a policy and collect the earned premium in case of the bankruptcy of the insured, or the right to retain the whole premium in case the voyage is terminated before the expiration of the policy.

(f) Those arranging for payment of losses within thirty or

sixty days, as the case may be, after receipt of the proof and adjustment of the loss together with the proof of insurable interest, and after deducting all sums due the company.

(g) Those granting the ship-master liberty of action in time of danger, such as proceeding to another port in case the port of destination is blockaded, or in case the stress of weather or unavoidable accident makes this imperative.

### *Warranties and Representations.*

The chief distinction between a "warranty" in a marine insurance policy and a "representation" is found in the strictness with which they must be fulfilled. Compliance with both is necessary to maintain the validity of the contract. In the case of the warranty, however, compliance must be "absolute and literal" or the policy becomes void from the moment of non-compliance, while as regards a representation "equitable and substantial fulfilment" is sufficient. In other words, a warranty is either as Arnould defines it, "A stipulation inserted in writing (or printed) on the face of the policy, on the literal truth or fulfilment of which the validity of the contract depends,"<sup>11</sup> or else it is as Gow expresses it, "A fundamental essential factor or condition inherent in each and every contract of marine insurance without exception."<sup>12</sup> A representation, on the other hand, is a statement in the policy less formal and severe than the warranty. The important thing connected with the representation is the determination of whether or not it is a material statement, *e. g.*, whether or not it has been one of the causes which led the underwriter to accept the risk, or influenced him in fixing the premium.

The term "warranty," as used to-day, may have two different meanings. In the first place there is the strict meaning of the term as exemplified by the definitions cited from Arnould and Gow. Among the warranties coming under this meaning, may be mentioned certain implied warranties of which more will be said later; or those which oblige the vessel, if trading to certain places, to sail within the time prescribed by specified dates; or which prohibit the vessel from carrying certain articles like combustible or injuri-

<sup>11</sup> Arnould. "Treatise on the Law of Marine Insurance and Average." p. 625. (Also in Gow's "Marine Insurance." p. 260.)

<sup>12</sup> William Gow. "Marine Insurance." p. 260.



ous chemicals, etc., or from taking a certain course, or from trading in certain prohibited areas; or which forbid loading the vessel beyond a certain limit with specified articles. On the other hand, the term "warranty" is often spoken of as referring to statements which are opposed to the usual provisions of the policy and which aim to relieve the insurer from certain losses for which he would otherwise be liable. Among such statements, commonly found in policies, are those freeing the underwriter from loss on account of capture, seizure or detention by any power or persons, or loss arising from abandonment under certain conditions, or in consequence of jettison of certain articles, and a host of similar provisions (often including the memorandum and the "free from particular average" clause) too numerous to permit of mention here. Such provisions are frequently introduced by the words "warranted free from," and have consequently acquired the name of "warranties," a practice, no doubt, favored by underwriters, because the term "warranty" if applied to statements favorable to the insurer would, owing to the strict interpretation attached to the term, be more apt to render their fulfilment certain by the insured.

Viewing warranties from another standpoint, they may be either "expressed" or "implied," according as they are written or printed on the face of the policy, or are of such fundamental importance that their force is universally acknowledged in marine insurance without appearing in any policy. "Expressed" warranties need claim but little of our attention, since the warranties cited above belong to this class. But when we come to consider "implied" warranties we reach a subject which underlies and vitally affects every contract of marine insurance. In fact, the conditions of these "implied" warranties must be present in every risk before any policy can be legally enforced, and non-compliance with any of their provisions will render the policy null and void. Briefly stated, implied warranties are three in number and provide:

1. That the vessel must be seaworthy in all respects for the intended voyage at the time of starting. This implies that the vessel must be in proper condition as regards the hull, machinery, rigging, the supply of fuel and provisions, the size and stowage of the cargo, the efficiency and sufficiency of the crew, and in all other particulars which, in view of the ordinary perils apt to be encountered, are essential in successfully prosecuting the voy-

age and carrying the cargo described in the policy. If the voyage is to be divided into several separate stages, this warranty applies at the beginning of each stage. Moreover, when a different equipment is necessary for one stage of the journey, as compared with another, where, for example, part of the voyage is by river and part by sea, the warranty is nevertheless applicable as regards each stage.

2. That the vessel will proceed in the usual way, directly and without deviation or unnecessary delay, from the port of departure to the port of destination. Only where deviation is permitted or required by the policy, or made necessary by overpowering circumstances or the desire to protect human life or aid in saving a vessel in distress or the subject matter insured, or where non-compliance is due to barratry of the master and mariners, and this is covered by the policy, is there a justifiable excuse for failure to observe this warranty. And where any deviation has occurred and the cause has disappeared, it is essential that the vessel should without undue delay resume the proper voyage. Failure to do so will be construed as another deviation, and will nullify the policy.

3. That the adventure shall be legal in all particulars. This implies that the vessel will conform with all legal requirements regarding her papers and will refrain from engaging in any unlawful trade.

All these implied warranties will appear just upon reflection, and the public interest demands that they should be observed. Yet, despite their importance, it is only in recent years that they have been given full effect. The original bills of lading used in shipping cargoes did not exempt the carrier from responsibility for loss or damage unless resulting from unavoidable causes. From time to time, however, this responsibility of the carrier was limited through the insertion of stipulations in bills of lading, providing against responsibility for loss resulting from the unseaworthiness of the vessel, negligence of master or crew, and other avoidable causes. As the decisions of the courts subjected the carrier from time to time to new liabilities, additional clauses were introduced into the bills of lading to obviate these decisions. As a consequence the responsibility of vessel owners was reduced to a minimum, and conditions remained in this shape until the year 1893 when Congress passed the so-called Harter act. This act nullified every agreement seeking

to relieve the carrier from responsibility for loss caused by negligence or failure in properly loading and caring for the freight, and at the same time provided that if the ship-owner would render the vessel seaworthy in all respects, no responsibility was to attach to any loss which arose from error in navigating or managing the same.

### *Clauses in General Use.*

Having stated the main provisions common to marine policies in the United States, we come now to a most difficult feature to explain in connection with such contracts, namely, the almost endless variety of clauses or riders attached to policies in order to express special arrangements entered into by the contracting parties with a view of changing or supplementing the provisions contained in the printed policy form. These clauses are usually either printed, written or stamped in the margin of the policy, and very frequently, to make their importance conspicuous, are introduced in red print. Frequently these clauses are also expressed as warranties. But whatever the form in which they may appear, or however contrary to the printed portion of the policy they may be, they are nevertheless binding upon the parties to the contract, in view of the principle that any writing in the policy or any printed clause attached thereto is regarded as a special agreement, and as taking precedence over the printed matter in the main body of the policy itself. Owing to the exceedingly large number and variety of such clauses in use, it is next to impossible to attempt an enumeration of them all. How large the number is may be judged from the fact that Mr. Douglas Owen in his effort to collect and classify them in his work on "Marine Insurance Notes and Clauses" required a volume of over two hundred and fifty pages. Despite their number, however, there are some clauses of such frequent use as to deserve special mention.

1. *The Collision Clause.*—This clause first came into general use after 1836, in which year it was decided by a British court that an underwriter was not liable under the ordinary wording of the marine policy for damages caused by the insured vessel to another vessel through collision, even though the insured vessel was at fault. Hence, although the damage suffered by the insured vessel through collision is covered by the marine policy, it became necessary, in view of this decision, to make a separate contract whereby the under-

writer would agree to assume liability for the damage caused to the other vessel. Accordingly it became common to insert a clause which made the insurer liable for all or a portion of the damage thus incurred, and to-day the use of the so-called "collision clause" has become well-nigh universal. Its general use and great importance will justify its reproduction here in the form in which, with few exceptions, it is found in American policies, viz.:

It is agreed, that if the vessel hereby insured shall in consequence of collision with another vessel, become liable to pay, and shall pay, any sum or sums for damages resulting therefrom to said other vessel, her freight or her cargo, in such cases this company will contribute towards the payment of three-fourths of the total amount of said damages in the proportion that the sum insured under this policy bears to the total valuation of the vessel as stated herein, provided that this company shall not in any event be held liable under this agreement for a greater sum than three-fourths of the amount insured under this policy.

And it is also agreed that this company will bear a like proportionate share of the costs and expenses that may be incurred in contesting the liability resulting from said collision, provided the written consent of the company to such contest be first obtained.

But under no circumstances shall this company be held liable for any contribution in respect of any sum that the assured may be held liable to pay, by reason of loss of life or personal injury to individuals in any cause whatsoever.

2. The "*Free from Particular Average Clause*," which signifies that the insurer is not liable for loss resulting from particular average. In most cases provision is made that the clause shall not apply "unless the vessel be stranded, sunk, burned or in collision"; while some companies use the phrase, "unless caused by the perils enumerated."

3. A clause exempting the underwriter from loss "on account of capture, seizure, detention or destruction by or arising from hostile forces, civil commotions, riots, or by the acts of officers or other persons acting in the name of belligerents, or in pursuing warlike operations whether before or after declaration of war." The risks growing out of war, as has been said, are "deemed greater than all the perils enumerated in the policy."<sup>13</sup> Thus by inserting the above clause the underwriter relieves himself from liability on account of a risk which in itself would require a very substantial increase in the premium charge.

<sup>13</sup> A. A. Raven. In *Yale Insurance Lectures*. 1903-04. p. 193.

4. Among the numerous other clauses in use, which might be mentioned, are those which provide that all risks insured are to be considered as underdeck unless otherwise specified; which prohibit the insured from trading in certain places or from carrying certain commodities; which grant the vessel certain liberty of action in case of certain contingencies; or which relieve the company from being answerable for certain defined losses, or for damage arising in consequence of specified actions or events.



#### **IV. Accident Insurance and Liability Insurance**





## ACCIDENT INSURANCE

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BY EDSON S. LOTT,

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By the way, *what is an accident?* A clear and comprehensive answer would be warmly welcomed in the claim department of every accident insurance company. Up to date each time some proud discoverer has imagined that his definition would hold—that he has hit upon an unfailing formula—the endless cup-chain of events has dipped down into the bottomless well of evolution and brought to the surface a new and unthought-of combination of circumstances, smashing the formula into little bits. No lexicon comes within hailing distance of a solution. Later I shall state, briefly, what kind of an accident one must have in order to pry up the lid of an accident insurance company's strong box.

### *The Beginning of Accident Insurance in this Country.*

The Travelers Insurance Company, of Hartford, was chartered in 1863, and that may properly be said to be the beginning of accident insurance as it is known to-day. Prior to that, English companies had granted insurance against the hazard of railway travel, but general accidents were not considered insurable until then.

The first contract of accident insurance made in this country was for a premium of two cents. Early in the year 1864, while Lincoln was still serving his first term as President, James G. Batterson verbally insured James Bolter in the sum of \$5,000 against death if due to an accident occurring while Mr. Bolter walked from the Hartford Post Office to his residence in the same city, the consideration being two cents. At that time The Travelers Insurance Company was chartered and Mr. Batterson was its president, but it had not begun active business. That original premium, two one-cent pieces, is still in the possession of The Travelers Insurance Company,

and Mr. Batterson, now deceased, became the most famous accident underwriter in the world.

From that small beginning has grown a business of many ramifications and of great importance. About fifteen millions of dollars are now paid annually in this country in personal (or individual) accident insurance premiums alone, while the general business of accident (or casualty) insurance has broadened until it now embraces liability insurance in all its branches, such as the liability (for damages on account of accidental bodily injuries) of manufacturers and contractors to their employees and to the public, the liability of owners of real estate and of owners of horses and automobiles to the public, etc., and also elevator, steam boiler, plate glass, automatic sprinkler, fly-wheel, and other like lines of insurance, while many accident insurance companies now also insure against sickness and burglary.

#### *How to Start a Stock Accident Insurance Company.*

There are several kinds of organizations issuing accident insurance in this country to-day—stock companies, fraternal associations, assessment societies and benevolent orders, each operating on a different plan but all organized for the same purpose—the benefit of the organizers. Time, however, makes it necessary to deal with stock companies only.

If it is desired to organize a stock accident insurance company in the State of New York (whose insurance laws are similar to and illustrative of those of other states, many of which have practically adopted the New York insurance laws), one must first sell at least one hundred thousand dollars of capital stock to *bona fide* cash purchasers, and with the money must purchase certain securities and deposit them with the insurance department of the state, for the protection of those who are insured. The interest on these securities may be drawn, but the securities themselves cannot be touched so long as there is a policy outstanding or a claim unsettled. They will be held by the state to pay the claims against the company if it cannot pay them out of the premiums received, and if it reaches a point where the state insurance commissioner is of the opinion that it cannot “make good,” he will—through the proper legal channel—put the company in the hands of a receiver, who will wind up its

affairs, using (in addition to the other assets) as much of the deposit with the state as will be necessary to pay its debts—which will in all probability be all of it.

This one hundred thousand dollars will permit the company to write one "line"—say personal (or individual) accident insurance. If the company wants to write other lines, like steam boiler, plate glass, burglary insurance, etc., then it must increase its capital and sell more stock, and make an additional deposit with the state. A deposit of \$200,000 will permit the company to write two lines, while a deposit of \$250,000 will permit it to write all the "casualty" (so called) lines. Most companies write several lines.

Having made the necessary deposit with the state, the company is ready for business, except that having deposited every dollar of its capital with the state, and not being permitted to withdraw a dollar of it for any purpose whatsoever, it will not have anything with which to pay the expenses of getting under way. Beyond all this, the state requires the company to keep always on hand (in cash or approved securities) an amount equal to the unearned premiums on all policies it has in force. This is called the reinsurance reserve. The state requires this reinsurance reserve to be maintained unimpaired, so that in the event of assuming greater liabilities than the company can carry it will have on hand sufficient premiums with which to pay a solvent company to assume the policies it has issued.

I have stated that the law requires the company to keep always on hand as a reinsurance reserve an amount equal to the sum of the unearned premiums on all the policies it has in force. Accident policies are issued, usually, for one year and the premiums are paid in advance. The premium is "earned" day by day as time goes by, so that when the policy has been in force one month, then one month's premium (or one-twelfth of the year's premium) has been earned and eleven months' premium (or eleven-twelfths of the year's premium) is unearned; when the policy has been in force two months, then two months' premium has been earned and ten months' premium is unearned, and so on. Of course at the end of the eleventh month there has been eleven months' premium earned and there is but one month of unearned premium. As practically all the policies are written for one year, the *average* earned premium is six months; likewise the average unearned premium is six months; hence the

company will find it necessary to maintain as a reinsurance reserve one-half of its premiums in force at any one time. If at any given time the full premiums on all the policies the company has in force amount to one million dollars, then its reinsurance reserve at that time should amount to one-half a million dollars; the average time the policies would have to run being six months. Policies written on a semi-annual and quarterly basis would affect this "easy calculation," but there are not enough semi-annual and quarterly premiums written to warrant further comment.

Having deposited all of its capital with the state and being obliged to keep intact as a reinsurance reserve its premiums as fast as they come in, where is the company to get the money with which to pay the expenses of organization, the printer, office rent, clerk hire, salaries and traveling expenses of those whom it employs to send through the country to secure agents, agents' commissions, postage and the fees and taxes of the various states in which it desires to do business? If the organizers are wise, they will have provided for this contingency by having sold its capital stock at a premium. Suppose they capitalize at \$300,000, divided into 3,000 shares, and sell the shares at \$150 each. This will amount to \$450,000,—\$150,000 more than the capital, and this \$150,000 can be used for the purpose of getting under way, leaving the capital and reinsurance reserve unimpaired. It may be somewhat difficult to convince people that they are being offered a good investment when they are asked to pay \$150 for a share in a new company whose par value is but \$100, especially as the newcomer must compete with firmly established and powerful rivals, but the surplus fund thus acquired is indispensable. The company must have a "working" capital.

*The Internal Workings of a Stock Accident Insurance Company.*

A few words about the internal organization of a stock accident insurance company may be said, omitting some of the preliminary details necessary to place the company in actual working order. The active affairs of the company are managed by officers, the president and the secretary or the general manager and the secretary usually being in control with subordinate officers and heads of departments in immediate charge. The officers are elected annually by the directors (sometimes called trustees). The directors are

elected by the stockholders, usually for a term of three years. Most boards of directors consist of nine or fifteen or twenty-one members, and their tenure of office is arranged so that one-third retire each year, making it necessary for the stockholders to elect one-third of the full board each year. Under ordinary circumstances, the stockholders meet but once a year and for the sole purpose of electing directors. The directors are commonly vested with the full control of the company and all its belongings. They usually meet monthly to receive reports from and give directions to the officers. Frequently the full board of directors elects from its body a smaller number as an executive committee, and this committee keeps in close touch with the affairs of the company and passes upon all but the most important matters. Then (in theory, at least) the heads of departments report to the subordinate officers, the subordinate officers to the executive officers, the executive officers to the executive committee, the executive committee to the board of directors, and the board of directors to the stockholders, who are the owners of the company.

The executive officers are almost always directors and members of the executive committee, and—as a matter of fact—the executive officers practically control the company and are responsible for its success or failure, and the state insurance departments hold them directly and personally responsible for the proper conduct of the company's affairs. The nature of the business is such that it is absolutely essential to the success of the company that its officers be given the greatest freedom in the exercise of their individual judgment, and it is also of equal importance that the board of directors never relinquish their right to interfere when interference is necessary. For a board of directors to attempt to handle the details or any considerable part of them, however, would be like the President's cabinet in time of war attempting to direct every movement and every order of a general while engaged in battle. And the successful executive of an insurance company is always engaged in battle—a constant battle for supremacy, which means that the odds are always against him, for he must forever contend against a greater force than his own, every other company being a competitor for the business already on his books as well as for that which he is trying to place on his books:

*Sub-divisions of Departments.*

The general underwriting department of an accident insurance company will be sub-divided into other departments,—such as the agency (or business producing) department, the accounting department and the claim department. Of course the most important of these is the agency department, and it should be presided over by a born business producer, one who can place business on the books of the company through his agency corps at a cost which it can afford to pay.

Scarcely less valuable to the company, however, is the claim department, for it is practically the only department which comes in close personal touch with the policyholder, and the success of the company will depend very largely upon the treatment accorded to its claimants. Here, as nowhere else, is brought out the complicated and indefinite nature of accident insurance. In most other forms of insurance indemnity is paid under exact and absolute conditions. This is not true of accident insurance. Even in the case of death, it is frequently not at all clear whether death was due to accident or to some other cause. When the claim is for loss of time the company must consider, not only the circumstances in connection with the injury and how it occurred, but also the disability itself—its duration, whether total or partial in itself, whether total or partial in view of the nature of the occupation,—and the trustworthiness of the information concerning these points. Incidentally, too, it must determine the bearing of the claim upon the desirability of continuing the insurance on the risk. The head of the claim department should be selected with infinite care.

It will be found that during the policy year one claim will be made for about every seven policies written; that the average period of total disability will be about three weeks; that during the policy year one out of about every six hundred policyholders will meet death coming within the meaning and intent of the insurance contract.

*Policy Forms, and How to Obtain Them.*

In organizing a company one need not, at first, bother much about policy forms, because those of leading companies may be adopted. While new policy features are the fad of the day with

accident insurance companies, and while there is a difference in policies, yet—as a rule—one company pays its patrons, in settling claims, about as much as other companies would give under like circumstances, making the result of accident insurance, in this respect, as a whole, about the same to the insured and the insurer irrespective of policy forms and the advertising features in connection therewith. At the same time the trend of the business is to deal with the insured with extreme liberality, and to this may be attributed the increasing popularity of accident insurance.

*Purpose of Accident Insurance, Premium Charges and Classification of Risks.*

When it comes to rates (premiums) and classifications one can also play “follow the leader” (until one becomes a leader), for while there is a divergence here and there, yet in the main the rates and classifications of the leading companies are the same.

The average accident policy provides the following indemnities: For loss of life, or two feet, or two hands, or one hand and one foot, or two eyes, \$5,000; for loss of one foot, or one hand, \$2,500; for loss of one eye, \$1,666; for total loss of time, \$25 per week—not exceeding two hundred consecutive weeks; for partial loss of time, \$10 per week—not exceeding twenty-six consecutive weeks. The lowest premium for all this is \$20 per year, and the highest premium (outside of a few very dangerous occupations) is \$150 per year.

“Trimmings” of all sorts go with the policy, if the insured wants them or if the agent can make him think he wants them, and for these extras the company charges an additional premium. One of the extras provides that the insured shall be entitled to double indemnity if he meets with a disabling accidental bodily injury while traveling as a passenger in a conveyance provided by a common carrier. But time prevents discussion of these details.

Speaking of rates, perhaps it seemed that the two-cent premium paid to Mr. Batterson by Mr. Bolter, in consideration of which Mr. Batterson agreed to pay Mr. Bolter’s estate five thousand dollars if Mr. Bolter was accidentally killed while walking from his post office to his residence, was a very small premium. As a matter of fact, it was an enormously high premium. It is estimated that it

took Mr. Bolter six minutes to walk the distance. Two cents for six minutes is at the rate of twenty cents for one hour, four dollars and eight cents for one day, \$1,752 for one year. To-day any company in the land would be glad to accept a like risk for one year for ten dollars.

To be entitled to indemnity the insured must suffer a loss caused by bodily injury effected exclusively and directly by external, violent and accidental means which, independently of any and all other causes, immediately and continuously disables him.

The purpose of accident insurance is to reimburse the insured for the financial loss he sustains by reason of an accidental bodily injury of such a nature as to disable him—as to prevent him from attending to the duties of his occupation. Accident insurance does not contemplate pain or inconvenience, *per se*, although many claimants think it should. The policy covers both total disability and partial disability. Total disability (or total loss of time) means that period during which the insured is rendered continuously unable to transact each and every part of his business duties. Partial disability (or partial loss of time) means that period during which the insured is rendered continuously unable to transact one or more of his important and necessary daily business duties. The policy also insures against loss of sight and loss of limb and loss of life. Indemnity for the loss of time or sight or limb is payable to the insured. Indemnity for the loss of the life of the insured is payable to the beneficiary, whom the insured selects—most frequently his wife.

When one buys accident insurance the premium paid will depend upon what class one is in, and the classification is determined by the hazard of the occupation. The hazard is ascertained from tables of accidents which have been compiled for many years and by many companies. In accordance with their relative hazards the various employments of mankind are divided into less than a dozen classes. In some companies these classes are known by descriptive titles, such as special, preferred, extra preferred, ordinary, medium, hazardous, extra hazardous, special hazardous, and so on; while other companies designate them as class one, class two, class three, and so on.



*What Determines Classifications.*

It has been stated that the man whose occupation is embraced in the least hazardous class pays \$20 per year for a certain amount of insurance, while a man engaged in an occupation included in the most hazardous class must pay \$150 for the same amount of insurance. From this wide difference in the rate of premium charged different individuals springs the need of accurate classification at the home office of the company. "Familiarity breeds contempt," and the man engaged in a hazardous occupation is the last man to believe that it is hazardous. Of course, in some cases the comparative hazard is apparent; everybody knows that a railroad brakeman is more liable to accidental bodily injury than a college professor—everybody but the brakeman; but everybody does not know that the best of all risks for an accident insurance company is a traveling salesman—if he travels on the cars. He is not so good when he travels by horse and carriage. Suppose we compare the commercial traveler with the dentist, as regards probability of disability from accident. In the first place, taking into account all the losses which have been paid by all the accident insurance companies doing business in this country during the past twenty years, only 4.77 per cent. arose from traveling on the railroad and but 2.74 per cent. resulted from street-car travel, showing that the popular idea regarding the hazard of travel is erroneous. In the second place, a little injury to the dentist's fingers puts him on the retired list for the time being. His fingers must be in normal condition to perform his work. And as he must stand to do his work, a slight injury to his foot is likely to estop him for the time being from following his occupation. But the traveling salesman goes merrily on with one arm in a sling or a crutch in place of one foot, gathering sympathy, admiration and orders as he goes. Indeed, he must go on, unless his jaw-bone is broken or dislocated, for to lay up means big hotel bills and some other fellow interfering with his "trade." Beyond this, the really good salesman is a man of nerve, not "cheek," but nerve and grit and courage, better remedies than medicine.

These illustrations point to other factors which enter into the classification of an occupation. First among these is what may be termed the *nature* of the occupation. Here we do not consider the effect of the occupation upon exposure to injury, but rather the effect

of the injury upon the performances of the duties of the occupation. To illustrate: A barber is not more exposed to accidental bodily injury than a lawyer; the slightest injury to the barber's hands, however, will disable him, while the same injury would merely inconvenience the lawyer and in no wise prevent him from attending to his usual duties. Take the watchmaker; a slight injury to his hand and the deftness and skill, so necessary to his craft, are gone. Let the business manager of a mercantile or manufacturing establishment injure his hand slightly, or even severely, and he goes on his way serenely.

Now consider the nature of the occupation in another aspect—its direct effect upon the injury itself. The surgeon affords an excellent example of this. Think of his constant exposure to septic poisoning in cases of even the most trifling injuries, mere abrasions of the skin. In many other curious ways this nature of the occupation exerts an influence and often explains many of the apparently unfair classifications.

Then there is the "moral hazard," not moral hazard in a general sense, but, specifically, the moral hazard incident to an occupation. It is well known that certain occupations are identified with certain classes, or say "grades," of men. This fact has, of course, a direct bearing upon his moral hazard. This idea also works conversely; that is, occupation has a direct influence upon the morals. Examples of this association between employment and morals are familiar to everyone, and I will only refer to instances where the connection is less apparent. It has been found that occupations in which employment is not constant or which, by their character, are not followed during certain periods of the year, are particularly dangerous from the underwriter's standpoint. The actor is frequently unemployed during the summer, certain classes of skilled laborers are idle during certain seasons, the student is idle most of the time, and so on. Experience has corroborated the precepts of the Bible; idleness leads to trouble—for the accident company. A wound does not heal so quickly, a slight scratch is totally disabling, and sometimes—well, when the insured is out of employment the accident company is supposed to play the rôle of Lady Bountiful.

There is still another point to consider; the influence of the occupation upon the physical state. Physical condition is, of course,

a vital factor in accident insurance; not only is the unhealthy risk more liable to injury and slower and less sure of recovery, but complication by disease is apt to arise, even from a trifling injury. The cause of this influence is often hard to assign, but in many cases it is easily seen. The intemperate habits of certain kinds of laborers, the excessive physical labor required of others, the conditions under which the work is performed, these and many other causes have their bearing.

Absolutely accurate classification can never be attained. The "personal equation," ever prominent in accident insurance, does not permit of this. The lawyer in the country milks his cow and harnesses his horse and does the "chores" about his house, and is thereby more exposed to accident than the city lawyer. The energetic, prosperous lawyer continues at his work even after a severe injury; the less industrious, less prosperous lawyer remains at home to recuperate. Women without steady employment are undesirable accident insurance risks, and men not regularly engaged in an occupation for hire or profit are equally so. Accident insurance is not really insurance against accident, but insurance against loss arising from accident,—loss of life, loss of sight, loss of limb, loss of time,—and only against loss of time when one's time has a cash value. The time of a man of leisure has no money value. Nor has the time of a woman who is not regularly employed. Women bookkeepers, clerks and stenographers are good subjects for accident insurance, but teachers and actresses are undesirable because during the summer months they are usually unemployed and at such times a very slight injury is likely to end in a prolonged period of disability.

While absolutely accurate classification cannot be attained, yet the business of accident insurance is far enough advanced to permit the underwriter to discard theory, and to-day each occupation is rated according to the actual cost of insuring thousands of like risks as shown by past experience, and when all the occupations insured by any company of considerable size are grouped it is known in advance that the total losses will amount to something less than 50 per cent. of the total premiums received—if the risks are intelligently passed upon at the home office of the company.

*Moral Hazard.*

In addition to occupation and its associated problems there are other features, quite general in their application, that are to be considered in the selection of risks. The applicant must be old enough, and not too old, to be able to take care of himself; his income must, for obvious reasons, exceed the weekly compensation afforded by his policy; he must be temperate in his habits; mentally and physically sound; and he must not live without the pale of civilization.

Then there is the question of moral responsibility. Moral hazard has been mentioned as associated with occupation, but it must also be taken into account in other ways. Immorality—whether due to habitual intemperance or other dissipation, or to financial stress—must necessarily be sufficient reason (when known) for declining a risk. Moral hazard as here used, has, however, a somewhat different meaning. Policies are frequently obtained with intent to defraud. Every company can cite many cases wherein its policyholders have deliberately and carefully (and too often cunningly) planned to rob it—and more or less frequently with success. At times, murder and suicide enter into the scheme, but usually it takes the form of self-mutilation. To the outsider it seems incredible that men will deliberately and permanently cripple themselves that they may secure the benefits provided by their accident policies, but such things have ceased to create wonder in the realm of accident insurance. Men actually do shoot off a hand or a foot or destroy an eye that they may collect indemnity from an accident insurance company.

If one wants to test the accuracy of this statement, draw the policy so it will pay \$5,000 for the loss of the right hand and \$1,000 for the loss of the left hand—and it will be found that when the policyholder loses a hand, 'tis the right hand which goes. Then change the policy, paying \$5,000 for the loss of the left hand and \$1,000 for the loss of the right hand—and be prepared to discover that the policyholders are losing their left and keeping their right hands. Follow it up and one will ascertain that often a gun did it (with the aid of the man behind it), and one will frequently ponder over the fact that the "right-handed" man gets his right hand accidentally shot off—when it is \$5,000 to \$1,000 in favor of the right hand—by the accidental (?) discharge of a gun in his left hand;

and—strange (?) to relate—the “left-handed” man meets with the loss of his left hand by the discharge (accidental, of course) of a gun in his right hand—when it is \$5,000 to \$1,000 in favor of the left hand. The further one follows this test the more convinced one will be that the moral hazard is the bugaboo of accident insurance. Mutilation by loss of hand is used as an illustration because all accident insurance companies have had to contend with it. Accident insurance companies are defrauded in many other ways. It is often impossible to establish the fraud to the satisfaction of a jury, but it frequently exists just the same.

Then there are the petty cases of fraud—the claimant feigns the injury, he deliberately prolongs the period of disability and demands compensation for something not covered by his policy—and so on. Ofttimes persons of eminent respectability make excessive claims with no thought of wrong-doing. They may charitably be designated as “unconscious malingerers.” Some otherwise fair-minded persons persistently pervert the meaning and intent of accident insurance and maintain that their claims should be paid because to turn them down is to assail their integrity. In many cases the agent who secured the risk writes his company that his business will be ruined if the claim is not paid. Some insured and some agents imagine that to whisper the words, “man of influence in the community” is sufficient to make the company yield to exorbitant demands, but a well-regulated insurance company cannot afford to recognize class distinctions nor to purchase that uncertain thing—*influence*. It frequently takes more courage to contest a claim than to pay it, but the company, not only in its own behalf but in behalf of its honest patrons, must refuse to countenance blackmail, even though it suffer, for the time being, by so doing. Every company pays, and it is right that it should pay, claims not coming absolutely within the intent of the policy, but to yield where fraud clearly appears is to violate the trust imposed upon the officers by the company’s stockholders and honest patrons.

It must not be thought, from this discussion of fraud, that the percentage of dishonest claims is large. In fact, the percentage of contested claims is exceedingly small and the overwhelming majority of claimants are honest. At the same time, the dishonest and exorbitant claimant must be reckoned with. It will not do to leave him out of calculation. He costs time and money.

*Losses, Reinsurance Reserve and Expenses.*

Having paid out in losses nearly 50 per cent. of the premiums we are brought back to the reinsurance reserve, which, it will be remembered, is an amount equal to the unearned premiums. Altogether this looks like 100 per cent. of the premiums received, and nothing left with which to pay agents' commissions (averaging about 25 per cent. of the premiums), the printers' bills (a large item with insurance companies), postage (another big item), office rent, clerk hire (another important item, as the entire business is one of detail record), salaries and expenses of traveling representatives (and no company can do business without them), state fees and taxes (the latter amounting to 3 per cent. of the gross premiums in some instances), the salaries and expenses of the insurance department examiners (which must be paid by the company), officers' salaries (who, if competent, must be paid liberal salaries), directors' fees (a considerable item in the course of a year), and stockholders' dividends (the very thing promised when the stock was sold).

How can this be done? Well, at first it can't, and that is why the stock was sold at \$150 per share, instead of \$100—the par value. However, if the officers have a technical knowledge of the business; and if—in addition—they work early, late and all the time; if they possess enthusiasm themselves and the ability to import it to all others connected with the company, including the agency staff as well as the home office force; if they can unerringly separate the fraudulent from the honest claimants; if they can pay a just claim in a manner calculated to make the policyholder feel that the company was organized for that purpose, and have the courage to let the fraud appeal to the courts; if they know how to cause every employee and every patron to realize that all he is entitled to is a "square deal;" if they have the mental and physical endurance necessary to untie hard knots and disentangle difficult problems every day of their lives; if they are constantly posted on the ever-changing insurance laws of each state in which the company does business; if they are original and bold and conservative, all at the same time; if they are tactful and tireless,—then there is a way whereby they can make profit for the owners of the company. Indeed, some men succeed in the business who are not the ideal described; they are those who have a fair amount of these attributes and make up the

balance by sheer hard work, by keeping everlastingly at it; and keeping everlastingly at it almost always brings success in any field of human endeavor.

After all this preamble, it may be stated that if the premiums received in the first year amount to say \$500,000, and the policies are all on an annual basis, and the average time they have to run at the end of the year is six months, and consequently one has set aside as a reinsurance reserve \$250,000, and the next year the premiums amount to \$600,000, then one need only reserve an additional \$50,000, for at that time the premiums actually in force will be but \$300,000. In other words, after having set aside any amount for a reinsurance reserve one need not increase that amount except as the business increases; hence, if the same amount of business is done the second year as the first year, no more reserve need be set aside, but the entire premium may be used to pay losses and expenses, and losses should not reach quite 50 per cent. of the premiums.

#### *Investment Earnings.*

Another very important item has not been mentioned. It is the item of investment earnings. The capital of an insurance company is invested in interest-bearing securities. So is the reinsurance reserve. Likewise the surplus, if there is any, and every well regulated company has a surplus. The amount set aside for claims in the process of adjustment is drawing interest, too. These items go to make up the company's assets, and as the business grows these items grow, until the original capital is but a small part of the total holdings of the company.

Suppose the original capital of \$300,000 is intelligently nursed until the total assets are \$2,000,000, and the entire amount is safely invested in securities which average a net income of  $4\frac{1}{2}$  per cent. This means \$90,000 a year from this one source, or 30 per cent. per annum on the capital stock. In that event one can pay out, in losses and expenses, 100 cents for every dollar of premium received and still make the stockholders happy—and, in time, opulent. And then, one need not stop with assets of \$2,000,000; but can go on and on, and grow and grow, and the dividends can also go on forever.

*Importance of Intelligent Investments.*

It appears, then, that there are two principal departments in an insurance company, the insurance (or underwriting) department and the banking (or investment) department, and while the underwriting department must first furnish the funds for the banking department to invest, the success of the company will largely depend upon the intelligence exercised in these investments. The securities must be safe, and at the same time profitable, for an additional one-half of 1 per cent. on \$2,000,000 is \$10,000 per year, 3 1-3 per cent. on a capital of \$300,000.

Should the company reach a point where its interest amounts to \$90,000 per year it would be most unwise to pay it all out in dividends to the stockholders; instead it should create a surplus,—for a bad year, for an epidemic of losses, to show the patrons that it can stand reverses and still pay claims. Indeed, should it have no surplus it would be in constant danger of going into the hands of a receiver. Any day may bring a loss of many thousands of dollars, and the following day may be worse. Whenever the company reaches a point where it has no surplus, where the assets equal the liabilities and no more, then the company is right up to the dead line, and should a loss force it over the line, it will soon find the receiver in possession.



## LIABILITY INSURANCE

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While marine insurance was practiced along modern lines as early as the twelfth and thirteenth centuries, and while life and fire insurance companies seem to have had their beginning in the seventeenth century, employers' liability insurance—or, as in the gradual broadening of its scope it has come to be known, Liability Insurance—is a comparatively recent production. The first policy of this kind of insurance was issued in England in 1881. Until 1889 this class of insurance in Europe and America together had not reached a sufficient volume to attract any particular attention. Since that time, however, it has become a factor of considerable importance in economics both here and abroad and affords a field for much study and the practice of the best judgment.

The necessity for such insurance has for its foundation the burdens imposed upon employers by the workings of that branch of the law relating to negligence, so called. Negligence law, however, existed in some form as far back as there is any definite record, no one having yet been able to clearly determine just when and where it commenced.

It may be well, therefore, to trace in outline what is very aptly termed the "evolution of negligence law" down to the time when employers' liability insurance was adopted as a means of protection against its application.

In early times there were no such fine distinctions as respects negligence as exist to-day. Suits for damages were rare and the plaintiff was usually obliged to prove the damages to have been the result of wilful act.

But while Employers' Liability Insurance is distinctly a modern need, due to the great growth of negligence actions in the past twenty years, the law of negligence has been at least three centuries

in building. Its beginning is lost in the obscurity of feudalism, in which the master, as the owner, virtually, of the body of his servant, answered upon the field of arms to those outside his household who were injured by the wrong of his servants or henchmen. Under the feudal régime there was, of course, no recognition of any right of the servant against the master for the latter's negligence. A feudal master in his own household, like a king, could do no wrong.

The statute of Westminster II (1295 A. D.), allowing the chancellor to grant a new form of action for injury to person or property, marks perhaps the first recorded recognition of a legal remedy for negligence. In the reign of the Plantagenet kings the year-books record no cases of this character. In Comyn's Reports (1695-1740) is found the first collection of negligence cases.

Blackstone, whose now classic "Commentaries" afford us the earliest authoritative exposition of English law in its formative stages, refers only briefly to the master's liability to third persons for his servant's negligence and does not even mention the idea of a master being liable to his employee for his own negligence. Thus he says: "If a servant by his negligence does any damage to a stranger, the master shall answer for his neglect; if a smith's servant lames a horse while he is shoeing him, an action lies against the master and not against the servant, but in these cases the damages must be done while he is actually employed in the master's service, otherwise the servant shall answer for his own misbehavior. Upon this principle, by the common law, if a servant kept his master's fire negligently, so that his neighbor's house was burned down thereby, an action lay against the master."

How great the contrast between the servant's position in that day and in this is emphasized by the further statement of the same author that "If a fire occurs in the master's house through the negligence of any servant, such servant shall forfeit one hundred pounds to be distributed among the sufferers, and in default of payment shall be committed to some workhouse and there kept at hard labor for eighteen months."

Somewhat later we find the earliest recorded attempt by an English judge to formulate the law of negligence. After an exhaustive analysis of the Roman law, Lord Holt, in the celebrated case of *Coggs vs. Barnard* (2 Lord Raymond, 909), in the year 1704 defined three degrees of negligence, viz.: gross, ordinary and slight,

varying in proportion to the degree of care assumed by the person charged with negligence in the act or occupation involved.

The growth of that spirit of individual responsibility which characterizes and animates all Anglo-Saxon jurisprudence soon led the English judges to lay down one broad rule of duty which has since been the basis of the law of negligence, and which, after many modifications, is crystallized in a modern definition as follows: "Negligence, constituting a cause of civil action, is such an omission, by a responsible person, to use that degree of care, diligence and skill which it was his legal duty to use for the protection of another person from injury as, in a natural and continual sequence, causes unintended damage to the latter."

The early cases recognized the liability of the master only to the public or to third persons. The great mass of law from which has been evolved the employer's liability to his own servants for his negligence or for the negligence of one representing him in the pursuance of the employer's duty is the product of the present century. The master's duty, so elaborately presented in the employers' liability acts of four of our states and in many state constitutions, with its intricate modifications, is the product of the present generation. It is a striking fact that more suits for negligence have been tried in the Supreme Court of New York in the last ten or fifteen years than in all the previous experience in that tribunal.

Following old world history, therefore, we may look upon the evolution of the law of the master's or employer's liability as an ever growing tendency of the times, due, doubtless, in large measure, to the changes in the social and industrial condition of the working classes as well as their greater demands and their increased political importance.

The changes in law thus far, however, have been gradual. New rules and tests have been from time to time adopted until the conditions reached a point where the responsibilities of the employer became so burdensome that he was obliged to look about him for some means of protection in addition to the exercise of ordinary care and foresight in the actual conduct of his work. The employer with a limited amount of capital was in constant danger of disaster to his business by reason of exorbitant verdicts obtained because of some technical negligence for which he personally might not be actually and morally responsible, but for which the law might con-

strue the liability against him. This contingency seemed to be a proper subject for insurance, and it has perhaps been pointed out with more or less clearness that, while there was no recognized necessity for such insurance in early times, the evolution of the law of negligence brought about a demand which was finally met by Employer's Liability Insurance. But let us not lose sight of the fact that while this demand was met when the want was most felt, the introduction of insurance as a protection has by no means stopped the march of progress in negligence law.

Under the common law the master or employer is held responsible for personal injuries suffered by his servant or employee if such injuries are due to the master's negligence; the master is likewise held responsible for such injuries to persons other than his employees whether caused by his own or his servant's acts.

There have been numerous limitations and variations of the rule of negligence by statute and otherwise in the several states of the Union, notably by the employers' liability laws heretofore referred to, wherein the duty of the master to the servant is more or less definitely fixed. These laws followed the employers' liability act introduced and passed in the British Parliament in 1880, by virtue of which act the burden was placed upon the master for injuries sustained by the employee by reason of the negligence of a vice-principal, or, in other words, of a foreman or superintendent. Immediately upon the passage of this act of Parliament the form of insurance known as employers' liability insurance was undertaken in Great Britain to protect employers against such loss as might be entailed by its operation, and therefore this, like nearly every other form of insurance, had its origin in Europe. It did not take long, however, for underwriters in the United States to recognize its value as applied to conditions on this side of the water, nor was it long before the employers' liability laws passed in this country and following somewhat closely upon the act of the British Parliament made such an insurance a practical necessity. Within five years after its introduction in England this system of insurance had been launched in America and was immediately accepted and adopted by a large number of employers of labor. At that time our courts were becoming congested with suits for negligence, and insurance providing against damages in such cases was welcomed as a means of protection against such claims.

Within a few years several of our states passed employers' liability laws and others adopted statutes relating directly to the liability of the master to the servant; each being of such a nature as to increase the liability of the employer of labor. It is not surprising then that an insurance which was intended to relieve the employer or master from actual loss under such circumstances should be viewed with favor and that it should take a place in commercial economics so quickly.

There are practically no text-books on insurance which devote any space to this important branch of insurance, but there are whole libraries full of reports on negligence cases both as respects employees and third persons, all of which have a direct bearing upon the principles involved in liability insurance. I will therefore try to place before you in as plain and simple manner as possible the practical working of this kind of insurance.

The purpose of the insurance is stated clearly in the definition used in the laws of the State of New York, which is as follows:

"Insuring anyone against loss or damage resulting from accidents to or injury suffered by an employee or other person and for which the insured is liable."

The employers' liability policy, issued to cover the owner of a factory, begins usually with the following clause:

"The ——— Company does hereby agree to indemnify the assured against loss from the liability imposed by law upon the assured for damages on account of bodily injuries or death accidentally suffered while this policy is in force by any employee or employees of the assured while within the factory, shop or yard described in the schedule, or upon the sidewalk or other ways immediately adjacent thereto provided for the use of such employees or the public, in and during the operation of the trade or business described, etc."

The same general insuring clause is used for many other contingencies of loss from liability, varied of course to suit the given subject, as for instance: Public liability insurance, meaning insurance covering the liability of the employer to persons not in his employ who may visit his plant on business or otherwise; employers' liability insurance for contractors and others employing labor on work not confined to any given locality; public liability insurance for contractors, covering the liability of the contractor to persons

not in his employ who may be injured or killed by reason of the building operations or public work which he is carrying on; general liability insurance, covering the liability of the owner of a building for injuries or death caused by defects in or about the building, or its operation for the use of tenants; elevator liability insurance, relating to the liability of the owner or tenant of a building for accidents caused by the operation of an elevator; teams liability insurance, covering the liability of the owner of horses and vehicles for accidents caused by such teams; theatre liability insurance, covering the owner of a theatre for his liability for accidents occurring in a theatre or place of amusement; vessel liability insurance, covering the liability of the owner of ships, tugs and other vessels, such as barges and scows used for freighting purposes, for injuries or death of any of the crew or of other persons visiting the vessels, and in some cases of the passengers; physicians' liability insurance, covering the liability of a physician, surgeon or dentist, for injuries or death caused by alleged malpractice in the profession of the assured.

The same principle runs throughout all of these different policies. Insurance of other hazards have been from time to time undertaken, but those named are practically all that are in vogue at the present time. The insurance of railroads and other common carriers against injuries to passengers was written by a number of companies some years ago, but experience taught both the railroads and the insurance companies that only where the true principles of insurance are involved can there be any advantage to either party; and it is quite clear that no insurance company could safely assume all the personal injury losses of a railroad company unless it charged a premium equal to the average sum of such losses, plus all expenses and a margin for profit. On the other hand, the railroad company, with a knowledge of the average annual payment for such losses, would not be willing to pay for insurance an amount exceeding such sum, because the plant is usually large enough to establish its own average, and that average loss can be borne by the railroad without danger to its credit. It is not so with the average employer of labor; the storekeeper, the manufacturer, the contractor, the landlord, the owner of vehicles, the owner of a theatre, the owner of a vessel, or the physician—any of these may have his commercial or professional credit seriously impaired by a single suit for damages.

As the theory becomes better understood the possibilities broaden. Steam boiler insurance, an insurance against property damage caused by the explosion of steam boilers, had been carried on for many years in this country, and for a longer period in Europe, prior to the advent of liability insurance, but nearly all such policies at the present time have been so extended as to cover the liability of the owner or operator of the boiler for damages by reason of personal injuries as well as damage to property. New lines are suggested by actual claims that arise and which are not contemplated by any policies now in vogue, and every year marks a step forward in the application of the principle of liability insurance to some new industrial need.

A common definition of insurance is as follows:

"A contract of indemnity whereby one party, in consideration of a specific payment called the 'premium,' undertakes to guarantee another against risk of loss."

The first step, it seems to me, therefore, in this review of liability insurance, having outlined the contract of indemnity that is issued by the insurance company, is to explain how the premium is computed. In all kinds of insurance the exposure, so called, is the basis of the premium charge. It will be well, therefore, to start with the employers' liability policy issued to factory owners and determine what is the exposure. One of the provisions of the policy is that the company shall be liable in a sum not exceeding a certain amount (usually \$5,000) for injuries to or the death of any one person, and not exceeding a certain amount (usually \$10,000) for injuries to or the death of more than one person injured or killed in any one accident. But the settlement of any loss does not diminish the policy in the least and it runs on with the application of the same amounts to other accidents which may happen in the future during the policy period. The limitations of the policy as respects any one person or any one accident cannot therefore be deemed the exposure. The actual exposure is the danger of injury or death to each employee during one year, or the period of the policy. In industrial institutions it would be impracticable, for the purposes of the insurance, to keep account of the actual time of labor of each individual employee, and therefore in order to establish a measure of relative exposure in given industries, the average wages earned by mechanics, as shown by the United States Census, was taken as

a basis. This amounts to about \$500 per annum. Having fixed on this sum (or for that matter any other sum would have been quite as useful) the total amount of wages expended in a given factory in the course of the year, or the term of the policy, if divided by \$500 will show the average number of persons employed in the factory for one year. Having adopted a factor on this basis, the first underwriters of employers' liability insurance, with no real basis for rates, were obliged to proceed in more or less of an experimental manner, using the experience of accident insurance companies in this country as a guide. It goes without saying, however, that it would be rather a clumsy method to ascertain the number of men exposed in the manner described and then charge so much per man. A much shorter method is immediately presented, *i. e.*, if it is determined that the rate ought to be \$5 for each employee, that sum would be equivalent to 1 per cent. of \$500, or one man's wages for one year. The rate, therefore, for the whole risk is easily determined by leaving out any calculation of the number of employees and simply computing the premium as 1 per cent. of the total amount expended for wages during the year. This method was applied to all of the numerous industries sought to be insured, and a rate-book was evolved fixing a rate for about every class of business. The policy is issued based on the estimate of the employer as to the amount of wages he expects to expend during the policy year. At the end of the policy year he is asked to make a report of the exact amount of wages actually expended, and this report is usually verified by an auditor from the office of the insurance company. If the amount when audited is found to be greater than the amount estimated, the employer pays to the company an additional premium, at the rate stated in the policy, on the excess of the estimate. If the amount is less than the estimate, the company returns to him the difference. This is the method of computing the premium for all policies covering employees, the names of employees not being required, the object being to obtain the average number of persons employed during the term of the policy. The term of the policy has, however, no direct bearing upon the amount of the premium, as the expenditure of \$100,000 in one month would indicate exactly the same premium as the expenditure of \$100,000 in one year, or \$500 expended in one week would indicate the exposure of one man for one year. The same method is followed for computing the premium



on public liability policies, on the theory that the greater the number of employees, the greater the hazard to the public. On the other lines of liability insurance the method is necessarily varied to fit the conditions.

The premium on a general liability insurance policy, which covers the liability of the landlord on account of accidents due to defects in the building, etc., is computed on the measurement of the building and its frontage on public thoroughfares, and other exposures, such as the use of elevators in the building. The premium on an elevator insurance policy is computed at a certain price for each elevator, experience having indicated the proper charge to be made on this basis; and the same is true of teams insurance. In theatre insurance the charge is made usually on the number of seats in the theatre. In vessel insurance, a charge is made for employers' liability on the basis of the wages; public liability on the same basis, and if passengers are insured in any way a charge is made based upon the receipts from passenger traffic. In physicians' liability policies the premium is a fixed sum for each physician.

The premium rates originally charged are found now in many cases to be totally inadequate. Not only because of faulty judgment in the beginning, but because the cost to the insurance company has been vastly increased by a continued disposition on the part of courts and legislatures to draw lines closer and place greater burdens on the employer, which burdens, by reason of insurance, fall upon the companies. The schedule of rates has been amended from time to time because it became clear that a risk hazardous for personal accident insurance might be non-hazardous for liability insurance, and vice versa; so that during the experimental stages of the business in this country the schedule of rates used by the several companies came to differ considerably, each company accepting business according to its judgment, which in many cases proved to be bad. Some nine or ten years ago all of the stock companies in the country, with one exception, became associated for the purpose of determining the actual cost of insuring the many different hazards to which liability insurance is applicable. It was deemed wise to collate the past experience of all companies to determine the actual cost in loss payments as against actual exposure. As this work went on important information was compiled resulting in

many changes in rates. The method of ascertaining the proper premium charge on an employers' liability policy was to select a given industry and ascertain the total amount of wages expended on all such insured risks for a given period of years, against which were placed the total losses incurred on the same business in the same years. Having these figures it was easy to ascertain the cost in loss for each one hundred dollars of wages expended, and to this cost must be added a sum sufficient to cover expenses and leave a margin for profit.

The expense of securing and handling employers' liability insurance is very high, being approximately 50 per cent. of the premium. The loss, therefore, should not be more than 40 per cent. if a company expects to have a margin of 10 per cent. for profit and contingencies. A simple method was adopted for computing a proper rate of premium by multiplying the net loss cost by  $2\frac{1}{2}$ . For example, if the experience of all the companies showed that for each one hundred dollars of wages expended forty cents was paid in losses, the premium charge for an insurance policy on that class of business should be two and one-half times forty cents, or \$1, and for a policy based on \$100,000 payroll, written at 1 per cent., the premium would be \$1,000. If such policy carried a normal loss ratio (which would be 40 per cent.), the loss would be \$400; the average expense would be 50 per cent. or \$500; a total of \$900 paid out, leaving \$100, or 10 per cent., for the company's margin to cover profits and contingencies. Practically the same method of compiling experience of all companies was followed in all the different lines with good results. Certain difficulties presented themselves because the general average did not apply to the same class of industries in different parts of the country. In almost any other line of insurance the schedule of rates once established in this way would be a true guide for the future. In liability insurance the same rule does not apply because the schedule established and found to be correct for to-day might be absolutely incorrect for the future by reason of the changes in laws and social conditions each year.

Environment is a serious factor in liability underwriting; not, however, from the same cause that governs other lines of insurance. There are about as many people injured or killed in a given occupation in one part of the country as in another, but the social conditions obtaining in the different sections influence matters of adjust-

ment and of suits to a great degree, as does also the actual difference in statutory provisions.

In the comparatively new states the population is not so homogeneous as in the older and more conservative communities, where whole families for generations have been employed in one industry or mill or factory. Under the latter conditions few claims are made, because the employer is likely to be in close touch with his employees, and his kindly treatment for years will always have an influence on his workmen and tend to prevent excessive claims for slight injuries.

On the other hand, in localities where the working classes are made up largely of immigrants from foreign countries, or in any event, is of a cosmopolitan character, no such good feeling exists or is likely to exist, and when claims are made for indemnity on account of injuries sustained, the sums demanded assume proportions which, if paid, would be a menace to the successful continuance of a business or trade where mechanical labor is a chief factor; and in such communities when claims are resisted and carried into the courts, unreasonable verdicts are frequently the result, presumably because the juries, being drawn largely from workingmen, are to a great extent in sympathy with the same class as against corporations and capitalists.

Beyond these factors in environment is the application of the law in the several states of the country. In some states the fellow-servant rule is strictly adhered to, while in others this rule is made elastic and decisions are usually favorable to the injured person; and in still others the rule is abrogated altogether. Promise to repair, proximate cause, contributory negligence, presumption of negligence and many other legal subtleties are also widely divergent in application, to such an extent that, in the matter of underwriting and rate making all these conditions must be considered as having a direct relationship to the selection of risk.

The general average of wages, too, does not always obtain, and it is a notable fact that the nature of employment and the character of workmen in some states decrease the premium per capita, by reason of the local low rate of wages, while the hazard is in no wise proportionately improved, but on the contrary is likely to be worse because of the lower grade of intelligence of the laborers.

It is a fair assumption that no two states are exactly alike from

an underwriting standpoint, and this sets up another difficulty in the way of establishing any rule of procedure which would be mathematically correct for the whole country. Each state must be rated and underwritten on the basis of the existing or changing conditions to be found in the given locality, and most companies engaged in liability business tabulate statistics in such a manner as to be able to determine the loss percentage by states.

It may be interesting to note that there are more than twelve hundred classifications of risks in the manual of rates at present in use by the liability insurance companies, and that each one of these must be separately tabulated and the results grouped as to relative hazards, and this information in turn subdivided as to states. Every careful company doing this class of business maintains a bureau for actuarial work of this nature, and while the compilation of the whole has never been effected, the business of a sufficient number of companies has been compiled to serve as a general guide.

In explaining how the premium is computed I have stated that a normal loss ratio is 40 per cent., but from this it must not be assumed that the company is making a profit of 60 per cent. The expense of conducting the business is very great; the commissions are heavy, and other expenses are large. An examination of the record of all of the companies engaged in this class of business for the past ten years will show an average expense ratio of approximately 50 per cent. The rate of commission alone will average between 25 and 30 per cent., to which must be added the salaries and traveling expenses of special representatives; rent and other expenses of branch offices; cost of surveys and inspections; home office expenses; rent, clerk hire, and a multitude of other small charges; the result being, as already stated, approximately 50 per cent. paid out for expenses.

In connection with the item of expense let us revert for a moment to the method of determining the premium. In most employers' liability policies to-day will be found the following clauses:

"The premium is based on the entire compensation whether for salaries, wages, piecework, overtime or allowances earned by the employees of the assured during the period of this policy; whenever employees are compensated, in whole or in part, by store certificates, board, merchandise, credits or any other substitute for cash,

the amount of compensation covered by such substitutes, shall be included in the entire compensation on which the premium is based. If such entire compensation exceeds the sum set forth in the schedule, the assured shall immediately pay the company the additional premium earned; if such compensation is less than the sum set forth in the schedule the company will return the unearned premium, when determined.

"Any of the authorized auditors of the company shall have the right and opportunity, whenever the company so desires, to examine such books, records and works of the assured as the company may deem necessary to ascertain the compensation earned by the employees of the assured, and the assured shall render reasonable assistance; but the company waives no right by failing to make such examination. The assured shall, whenever the company so requests, furnish the company with a written statement of the amount of compensation earned by his employees during any part of the period of this policy, and at the end of the period of the policy the assured shall furnish the company with such statement covering the full period of the policy. The rendering of any estimate or statement or any settlement shall not bar the examination herein provided for nor the right of the company to additional premiums."

These agreements refer only to such insurances as are based upon wages or compensation to employees, but whenever the premium is based on an estimate similar provisions are made, and it will be seen that they have a direct relationship to the matter of expense. The assured first estimates the amount he expects to expend by way of wages or compensation during the policy term. At the end of the policy term, or in fact at any time during the policy term, the company may ask for a statement of wages actually expended. Such a statement is not always rendered, and sometimes when rendered is incomplete, and the company, under its policy agreement, then audits the books and records of the assured in order to ascertain the exact facts. In the early years of the business such audits were rarely made, a sworn statement of the assured being accepted when there was any doubt. In later years, however, the audit system has been so expanded and improved that most of the companies are making an audit of practically every policy, and these audits are not the least of the expense in connection with this class of business.

Another large item of expense is that of mechanical inspections. Each company maintains an inspection bureau, in connection with which a staff of inspectors who are skilled mechanics must be employed; the theory of the insurance being that the assured is afforded the protection of this service in addition to the indemnity provided by the policy. A passenger elevator, for instance, is a very useful contrivance, and in the past twenty years has come into general use. It is a very dangerous device, however, unless its mechanical parts are very carefully scrutinized periodically and all dangers or defects removed or remedied. It is estimated that \$750,000 is the amount expended for such mechanical inspections by liability companies annually, and this expenditure for the most part is for inspection of steam boiler and elevator plants.

In these two branches of liability insurance the matter of inspections is considered of greater importance than in any other. While it cannot be shown definitely that inspections have actually prevented accidents, it is nevertheless true that many serious defects have been discovered and remedied. The inspection system is being gradually extended to all classes of risks, on the ground that an independent inspection by practical men is likely to influence employees in the direction of greater care and good order in the given plant, and so tend to a diminution of the number and seriousness of accidents.

The adjustment of losses under liability insurance policies is far more difficult than adjustment under any other form of insurance. It must be remembered in the first place that the injured person has no claim against the company. The fact that a person is injured does not mean that the company is obligated to pay. The company stands in the position of the attorney of the assured, assuming the same duties that any paid attorney would undertake, with the added obligation of paying the damages if any damages be the result of a trial at law; the limitation of the company's liability for such damages being stated in the policy. Under such conditions, of course, it frequently happens that where the company deems it wise to make a compromise settlement, it makes such settlement without awaiting a legal adjudication. Such settlements, however, are matters of judgment on the part of the company; the real theory of the insurance being protection for the assured against loss by reason of

judgments for legal liability. In practice the claim adjustment works out somewhat as follows:

The assured notifies the company that one of his employees has met with an injury and this notification is usually made upon a blank form furnished the assured for such purpose. It is not often that sufficient information is given to determine whether or not the employer is liable under the law, and the necessity arises at once for an inquiry into the facts. This investigation is made by one of the investigators employed by the company, who gathers such information as he is able to obtain and makes his report to the company. From this report the company may be able to obtain a sufficient view of the case to determine whether or not there is any liability on the part of the assured. More frequently, however, the investigator will be required to make numerous visits to the plant of the assured before all the facts can be ascertained. If in the judgment of the company the assured cannot be held liable for the accident, he is so notified, and the injured person is not approached at all. All the documents in the case, however, are carefully filed so that in the event of a future claim the information will be ready at hand. If, on the other hand, the matter appears to be a case of negligence and a claim is likely to be made, the investigator of the company is instructed to open negotiations with the injured person and ascertain what settlement can be made as between the employer and the employee; the representative of the company acting always in the name of the employer. This is where the adjusting work begins. All the information that the injured person is able or willing to give, and all the information that can be gathered from the employer or the fellow-employees of the injured person is carefully collated and reduced to writing; sworn statements of witnesses are taken—perhaps a physical examination has been made. In the meantime the injured person is likely to have retained a lawyer in his behalf. What appeared to be an insignificant case in the beginning may be the cause of more adjusting work than a really meritorious claim. Ignorant persons, guided by the pernicious advice of unscrupulous lawyers, will frequently push claims in which there is no merit whatsoever. If a reasonable settlement cannot be effected and the case goes to trial, the company must defend, by its own lawyers, in the name and on behalf

of the assured, and such defense is provided for by the following clause in the policy:

"If thereafter any suit is brought against the assured to enforce a claim for damages by reason of an accident covered by this policy and arising from a liability covered hereby, the assured shall immediately forward to the home office of the company every summons or other process as soon as the same shall have been served on him, and the company will at its own cost defend such suit in the name and on behalf of the assured."

The company being liable within the limitations of its policy for any loss by reason of a judgment rendered against the assured, is likely to recognize the wisdom of employing the very best skill in the defense of such suits, and as it is a well-known fact that the average lawyer in general practice builds up his business by litigation and that the general practitioner is not likely to have (nor can he be expected to have) a broad experience in negligence cases, it has come, therefore, to be the practice among liability companies to employ attorneys on salary; and these men being especially trained in negligence law are likely to exercise the best judgment in the matter of compromises, and also to be better equipped for the actual defense of suits when such cases arise.

In nearly every other kind of insurance it is a comparatively easy matter to determine at the end of each calendar year the number of claims and the amount of loss incurred during each year. In liability insurance, however, this is not the case. A notice of injury, as I have already pointed out, does not necessarily mean the payment of a loss. There are many notices of injury from which no claim accrues; there are many others, however, in which, from the early investigation, there appeared to be no liability and upon which claims accrue later on. The policy of any given company covers the assured for any loss which is the result of an accident happening during the term of the policy and of which due notice has been given to the company. This means that the injured person may sue his employer at any time within the statute of limitations, and that when such claim is made or such suit is brought, the company must take up the defense even if the policy is not then in force. Take the case of an employee who is injured in a state where the statute of limitations is six years (and the statute of limitations varies in different states from one year to seven years) the notice



of an injury to this employee, we will assume, is promptly given to the company and the information concerning the accident is gathered and filed in the company's office. No claim is made by the injured employee, and at the end of the policy term the assured decides to discontinue the insurance. Just before the expiration of six years from the date of the accident, however, the injured employee has a disagreement with his employer over a more or less trivial matter, and is discharged. Remembering the injury which he received nearly six years ago, and desiring to make as much trouble as possible for his employer, he brings suit. The company must take up such a case and defend it, notwithstanding the fact that the policy lapsed and was not renewed at its expiration. Such a litigation might easily extend over five years, so that it will be eleven years from the time of the accident before the issue is finally determined.

In the case of a minor the time would be still further extended because the statute of limitations would run from the time when the injured person became twenty-one years of age. Under these circumstances it will be clear that it is next to impossible to determine accurately at the end of any given year what loss has actually accrued. In many of our courts a case is not likely to be reached under two years after its commencement and the proverbial delays of the law make it entirely uncertain when a final determination will be reached.

There has been much floundering among the companies in an endeavor to arrive at a fair measure of what is termed "outstanding losses"; the companies for the most part in the past having estimated each notice of injury on its merits. This method left an opening for a wide divergence of opinion, with the result that while some companies laid aside a reasonable amount to meet the contingency of future losses on past notices, others made this fund as small as possible for the purpose of making good financial statements. Within the past two or three years laws have been introduced in several states, the object of which has been to provide a rule for measuring this fund, which would be equally and fairly applicable to all companies. The latest law on this subject is that introduced in the State of New York during the last session of the legislature. This law provides that each company shall set aside a reserve for accrued losses as follows:

1. A certain sum for each suit which is now pending or being defended for a policyholder by the company by reason of a notice received more than eighteen months ago.

2. A certain sum for each notice of injury which has been received by the company within the past eighteen months.

From the sum of these two items may be deducted the amounts actually paid on any notices of injury comprehended by the two items referred to. The balance is considered the amount necessary to settle all claims which will ultimately be made on the company by reason of the notices received down to the time of making the statement. The factors used, or in other words the cost of each suit and the cost of each notice are determined by taking the experience of each company for the first five years of the last ten years. That is to say, each company is required to report to the commissioner of insurance the average amount paid for each suit settled during the first five years of the period beginning ten years ago, and each company is also required to report to the commissioner the average cost of each notice of injury received by the company during the same period. If a company has not been conducting liability insurance for a period of ten years or more it must be governed by factors made up from the average of all of the companies that have been in the business the required time. The effect of this law will not be known until the end of the present year, when the first statements will be made under its provisions. The indications are, however, that many of the companies that have been heretofore estimating the expected future payments on past losses at a small sum will be required to set up as a liability a very much larger amount.

There is a diversity of opinion as to the wisdom of compromising liability claims. Some of the companies hold that it is the duty of the company to act for the assured in exactly the same manner that the assured's counsel would act for him if he had no insurance. On the other hand, it will be admitted, I think, that the counsel of the assured in advising his client is not by any means in the same position as the insurance company, with the function of loss payer as well as adviser. It is reasonable to suppose that the lawyer will give the best advice that his judgment dictates; it is clear also that the insurance company should give the best advice, not only by its judgment and by its actual experience in litigation, but

because it has to pay the judgment for damages obtained by the injured party.

The business in this country has not yet reached that stage where it can be said with any degree of certainty that either is the better policy. It is perhaps fair to assume, however, that the more acceptable method so far as the assured is concerned is a prompt settlement and full release. Under ordinary circumstances settlements can be made to better advantage if negotiated at once than if allowed to drift into the hands of unscrupulous attorneys whose exorbitant fees immediately swell the amount demanded. It is quite true that some sort of a payment for every claim that arises might result in establishing dangerous precedents in large establishments, but it is contended, on the other hand, that most employers prefer that every claim be settled and disposed of at once rather than be put to the trouble and annoyance of suits for damages later on. Thus far those companies which have been undertaking by prompt action to clear away liability have shown the best results, while those which have built up a large amount of litigation in the way of suits against policyholders are as far away as ever from the final determination, although the loss ratio of companies prone to litigation is often shown to be remarkably low, because based only upon actual payments made for losses.

The year 1887 was practically the first year in which there is any record of this sort of insurance in the United States, although some policies were issued in 1886. For the first few years after its introduction in this country no separate records were made, and the volume of premiums received is based more or less upon estimates, but the following table is deemed to be approximately correct:

1887 .....	\$150,000	1896 .....	\$4,250,000
1888 .....	300,000	1897 .....	4,700,000
1889 .....	650,000	1898 .....	5,100,000
1890 .....	1,120,000	1899 .....	6,400,000
1891 .....	2,100,000	1900 .....	7,700,000
1892 .....	3,000,000	1901 .....	9,000,000
1893 .....	3,500,000	1902 .....	11,500,000
1894 .....	3,700,000	1903 .....	13,700,000
1895 .....	4,000,000	1904 .....	14,700,000

These figures include all kinds of liability policies excepting only the steam boiler premiums, and will indicate the present volume

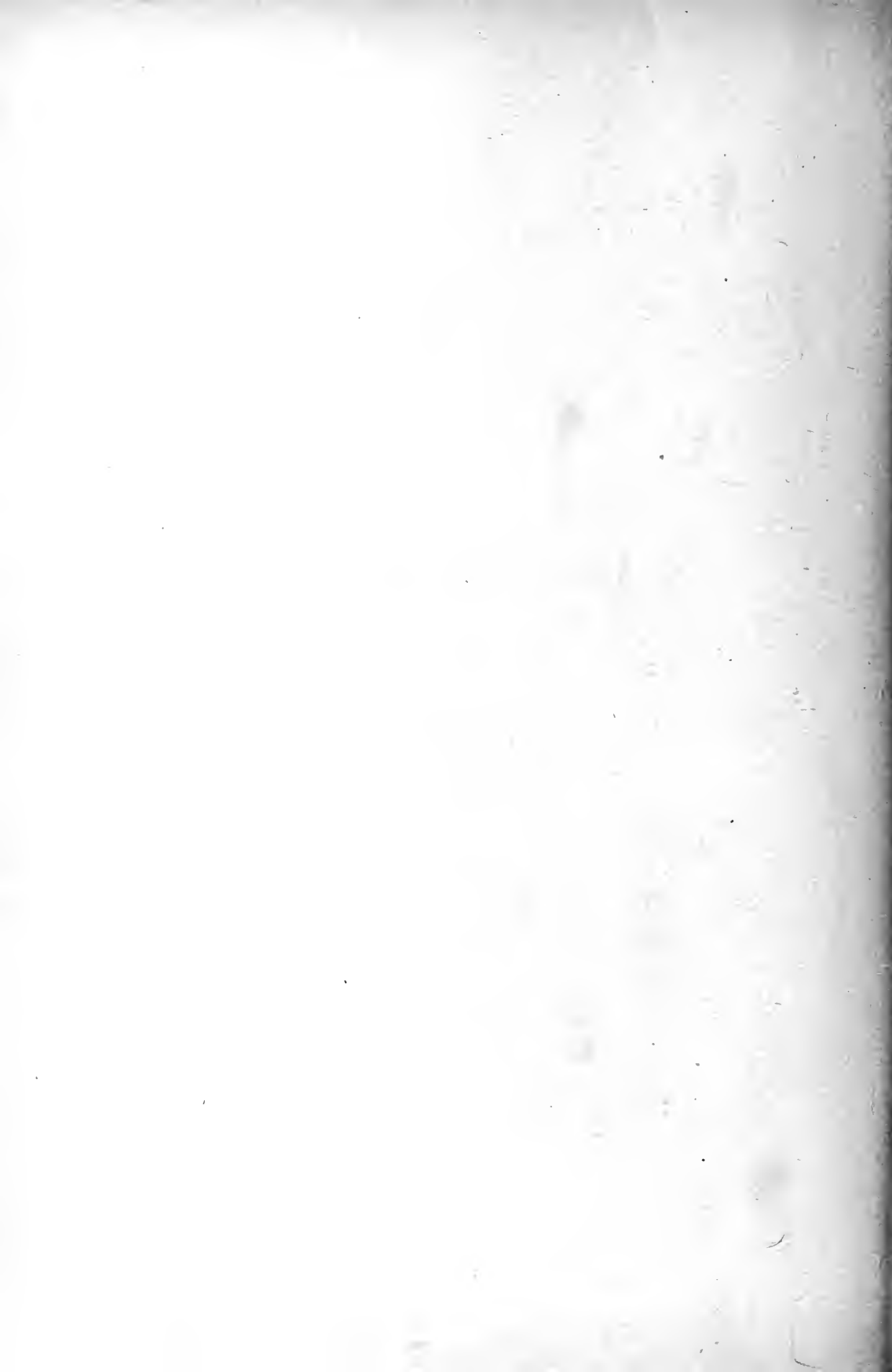
of this kind of insurance as well as its rapid growth in this country and the probability of its continued expansion until it reaches proportions which will place it eventually on a par with some of the greater lines of insurance.

The natural deduction is that the scope of liability insurance is unlimited. It is not confined by any means to the manufacturing industries, nor alone to employers of labor. Every year some new requirement for such insurance appears, and it is fair to assume that it has by no means reached its limit.

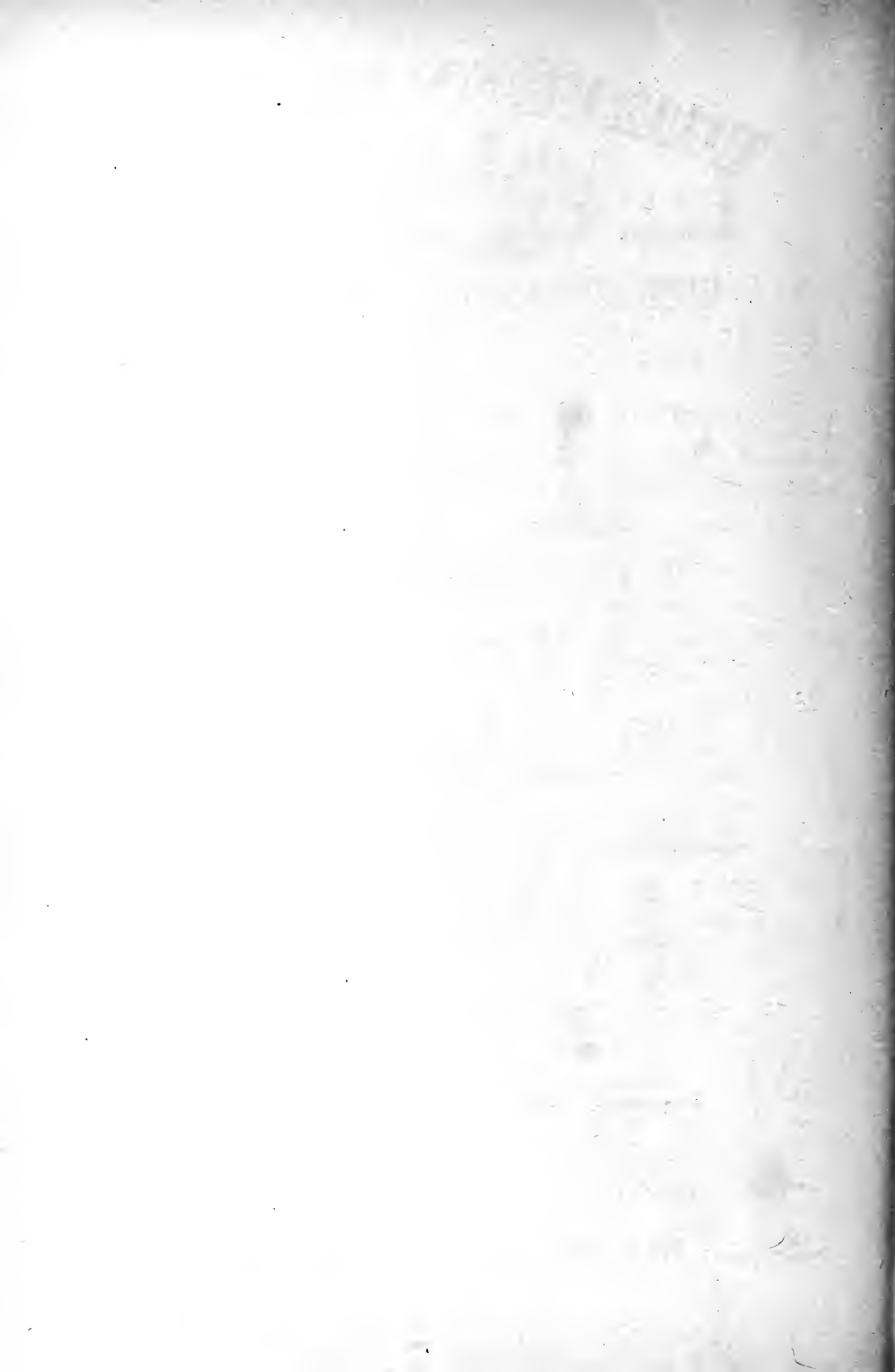
It may be well before closing to point out some of the dangers which are likely to be overlooked by beginners or those who have had no considerable experience in the business. The result of the first year's operations, at the prevailing rates of to-day, is likely to indicate so handsome a profit that the inexperienced manager may be misled into the belief that the rates are excessive. There is probably no other line of insurance so deceptive in this respect, and there is probably no other line of insurance so beset with difficulties and pitfalls as liability insurance. The final result of the first year's business will not be known until the time fixed in the statute of limitations has expired, and if the business is transacted in states where the statute extends six or seven years, it has been shown how long a period the business must run before the actual losses may be determined. It is generally conceded by those longest in the business that the losses shown as having been paid on a given year's business, at the end of the second year will be at least doubled before a final determination of the business of that year. The element of deferred loss is therefore most serious, and while holding out prospects of a very profitable business during the early years, the result has been, in the experience of every company, an ultimate loss ratio dangerously close to the safety line.

There seems to be no question about the firm establishment of this class of insurance in this country. In some European countries the indemnification of injured workmen has been made one of the normal items in the cost of operation. In other words, the workman is entitled to payment for his injuries without regard to the liability of the employer, and it has been said that while changes of this kind have been going on in Europe, the United States has stood practically still, and that the justice of it is not comprehended in the United States. However that may be, the only changes that

have been made in the laws in this country are along the line of increasing the employer's legal liability and by so much making all the more necessary an insurance such as is furnished by the employers' liability policy. Even if it were possible to so change the relation of the workman to his employer as to compel indemnification of practically all injured employees, the principle would still remain as respects persons not employed by the assured. There is no doubt that legislation and court decisions will affect the business as time goes on, but with the probability of opening up new fields for the same class of insurance along similar lines.



## V. Appendix of Policy Forms





# THE PENN MUTUAL

Number  
Specimen Copy.



Amount  
\$10000

## LIFE INSURANCE COMPANY OF PHILADELPHIA.

In Consideration of the Application for this Policy, hereby made a part of this contract,

Age  
35  
Sum Insured  
\$10000  
Yearly  
Premium  
\$273 80

THE PENN MUTUAL LIFE INSURANCE COMPANY

insures the life of William Penn [the insured]

of Philadelphia County of Philadelphia State of Pennsylvania

in the sum of Ten Thousand Dollars, and promises

to pay at its Home Office, in the City of Philadelphia, unto his

executors, administrators or assigns, the said sum insured, upon receipt of satisfactory proof of the death of the insured during the continuance in force of this Policy, upon the following conditions, namely:

The payment in advance to the Company, at its Home Office, of the sum of Two Hundred & Seventy Three 70 Dollars in cash, at the date hereof,

and of the \_\_\_\_\_ annual premium

of Two Hundred & Seventy Three 70 Dollars in cash, at or before

three o'clock P. M. on the First day of September

\_\_\_\_\_ in every year during the life of the insured: \_\_\_\_\_

This Policy shall participate annually in the surplus earnings of the Company in accordance with the regulations adopted by the Board of Trustees.

The extended insurance, paid-up insurance, and loan or cash surrender value privileges, benefits, and conditions stated on the second page hereof, form a part of this contract as fully as if recited at length over the signatures hereto affixed.

IN WITNESS WHEREOF, THE PENN MUTUAL LIFE INSURANCE COMPANY of Philadelphia has caused this Policy to be signed by its President, Secretary, and Actuary, attested by its Registrar, at its Home Office, in Philadelphia, Pennsylvania, the

First day of September 1905

W. H. Kingsley Secretary.

Harry P. Met President.

John J. Barker Actuary.

Attest. Specimen Copy Registrar.

Ordinary  
Life  
Policy

Issued by

25  
Policy Form No. 1  
Jan. 1, 1905

*Guaranteed Privileges, Benefits and Conditions.*

*I. Unrestricted as to Travel, Residence and Occupation.* From the date of issue this contract shall be without any restrictions as to travel, residence and occupation.

*II. Incontestability.* This contract shall be absolutely incontestable for any cause after one year from date of issue, except nonpayment of premium; but in case of suicide, whether sane or insane, within one year from the date of this contract, the liability of the Company shall be limited to the amount of the premium paid hereon.

*III. Payment of Premiums.* This contract does not take effect until the first premium shall actually have been paid during the good health of the insured. All premiums are due and payable at the Home Office of the Company in the City of Philadelphia, but they may be paid to agents on or before the dates when due in exchange for receipts signed by the President, Vice-President, Secretary, Treasurer, or Actuary. If not paid when due, the contract shall be null and void, subject, however, to the Company's non-forfeiture system as endorsed hereon with the accompanying table. From any sum payable under this contract there shall be deducted the unpaid portion of the year's premium, if any, and any indebtedness to the Company on account of this contract.

*IV. Age.* Any error in stating the age of the insured will be adjusted by the Company paying such amount as the premium actually paid would purchase at the table rate at the correct age.

*V. Proofs of Death* shall be furnished to the Company at its Home Office, within six months after the ascertained death of the insured, and in the form prescribed by the Company.

*VI. Assignment.* Any assignment of this contract shall be attached hereto, and a duplicate thereof shall be furnished the Company. Any claim against the Company arising under any assignment of this contract shall be subject to proof of interest. No assignment shall impose any obligation on this Company until it has received the original or a duplicate thereof, nor does the Company guarantee the sufficiency or validity of any assignment.

*VII. Re-instatement.* Should this contract lapse for non-payment of premium, it may, at any time, with the approval of the officers, be re-instated upon the insured furnishing satisfactory evidence of good health and the payment of past due premiums and any indebtedness with legal interest thereon.

*VIII.* Pursuant to law, a copy of the application for this contract is attached hereto. No alteration of this contract or waiver of any of its conditions shall be valid unless made in writing and signed by an officer of the Company.

*IX. Non-forfeiture Provisions.* If this Policy shall lapse through non-payment of premium after three years' premiums have been paid in cash, the Company, subject to the other conditions of the Policy, will guarantee the following options, as provided for in the table of values given below:

1st.—Will extend automatically, as term insurance, without participa-

tion, the net amount insured by this Policy, for the number of years and days named; or,

2d.—Will grant paid-up non-participating insurance, payable at death, for the sum provided for, upon written application by the owner of the Policy and the legal surrender of all claims hereunder to the Company at its Home Office within thirty days after such lapse; or,

3d.—Will pay the cash surrender value provided for, on surrender as aforesaid within thirty days from the date of lapse.

*X. Loan Value.* At any time after three years' premiums have been paid in cash, while the Policy is in force by payment of premiums, the Company will lend thereon, upon satisfactory assignment as collateral security, the sum provided for in the table of values given below. No loans will be made for a less sum than Fifty Dollars, and only in multiples of Five Dollars, and they shall be diminished by any indebtedness outstanding against the Policy.

Table of Extension, Paid-up, and Loan or Cash Values provided for by this contract, if no indebtedness exists against it.

At End of Year.	Term of Extension for this Policy.	These Values are for \$1000 Insurance For this Policy Multiply by 10.	
		Paid-up Insurance on Surrender.	Loan or Cash Surrender Values.
3rd .....	3 years 271 days	\$89.00	\$16.10
4th .....	5 " 8 "	119.00	33.14
5th .....	6 " 102 "	148.00	50.65
6th .....	7 " 177 "	177.00	68.65
7th .....	8 " 221 "	205.00	87.19
8th .....	9 " 224 "	233.00	106.25
9th .....	10 " 182 "	261.00	125.86
10th .....	11 " 92 "	289.00	146.01
11th .....	11 " 320 "	316.00	162.76
12th .....	12 " 141 "	343.00	179.87
13th .....	12 " 290 "	369.00	197.35
14th .....	13 " 40 "	395.00	215.16
15th .....	13 " 125 "	420.00	233.28
16th .....	13 " 183 "	444.00	251.68
17th .....	13 " 218 "	468.00	270.34
18th .....	13 " 231 "	492.00	289.22
19th .....	13 " 225 "	514.00	308.32
20th .....	13 " 202 "	537.00	327.58

Should any indebtedness exist it shall be deducted from the Cash Value of the Policy, and the other Values shall be diminished proportionately.



# THE PENN MUTUAL

Number  
Specimen Copy



Amount  
\$ 10000

## LIFE INSURANCE COMPANY OF PHILADELPHIA.

In Consideration of the Application for this Policy, hereby made a part of this contract,

THE PENN MUTUAL LIFE INSURANCE COMPANY

insures the life of William Penn (the insured),

of Philadelphia, County of Philadelphia, State of Pennsylvania,

in the sum of Ten Thousand Dollars, and promises

to pay at its Home Office, in the City of Philadelphia, unto his

executors, administrators or assigns, the said sum insured, upon receipt of satisfactory proof of the death of the insured, during the continuance in force of this Policy, upon the following conditions, namely:

The payment in advance to the Company, at its Home Office, of the sum of Three Hundred & Seventy Two <sup>50</sup>/<sub>100</sub> Dollars in cash, at the date hereof,

and of the Three Hundred & Seventy Two <sup>52</sup>/<sub>100</sub> Dollars in cash, at or before

three o'clock P. M., on the First day of September

in every year during the life of the insured, or until

Twenty full years' premiums shall have been paid:

This Policy shall participate annually in the surplus earnings of the Company in accordance with the regulations adopted by the Board of Trustees.

The extended insurance, paid-up insurance, and loan or cash surrender value privileges, benefits and conditions stated on the second page hereof form a part of this contract as fully as if recited at length over the signatures hereto affixed.

IN WITNESS WHEREOF, THE PENN MUTUAL LIFE INSURANCE COMPANY of Philadelphia has caused this Policy to be signed by its President, Secretary, and Actuary, attested by its Registrar, at its Home Office, in Philadelphia, Pennsylvania, the

First day of September 1905

W. H. Kingsley Secretary.

Harry J. Mat President.

Wm. J. Parker Actuary.

Attest: Specimen Copy Registrar.

Age  
35  
Sum Insured  
\$ 10000  
Yearly  
Premium  
\$ 372.50  
For 20 Years

Limited  
Life Policy  
Regular

EXAMINED BY

L. L.  
A. D.  
Policy Form No. 7  
Ed. 4, 1905

*Guaranteed Privileges, Benefits and Conditions.*

*I. Unrestricted as to Travel, Residence and Occupation.* From the date of issue this contract shall be without any restrictions as to travel, residence and occupation.

*II. Incontestability.* This contract shall be absolutely incontestable for any cause after one year from date of issue, except nonpayment of premium; but in case of suicide, whether sane or insane, within one year from the date of this contract, the liability of the Company shall be limited to the amount of the premium paid hereon.

*III. Payment of Premiums.* This contract does not take effect until the first premium shall actually have been paid during the good health of the insured. All premiums are due and payable at the Home Office of the Company in the City of Philadelphia, but they may be paid to agents on or before the dates when due in exchange for receipts signed by the President, Vice-President, Secretary, Treasurer, or Actuary. If not paid when due, the contract shall be null and void, subject, however, to the Company's non-forfeiture system as endorsed hereon with the accompanying table. From any sum payable under this contract there shall be deducted the unpaid portion of the year's premium, if any, and any indebtedness to the Company on account of this contract.

*IV. Age.* Any error in stating the age of the insured will be adjusted by the Company paying such amount as the premium actually paid would purchase at the table rate at the correct age.

*V. Proofs of Death* shall be furnished to the Company at its Home Office, within six months after the ascertained death of the insured, and in the form prescribed by the Company.

*VI. Assignment.* Any assignment of this contract shall be attached hereto, and a duplicate thereof shall be furnished the Company. Any claim against the Company arising under any assignment of this contract shall be subject to proof of interest. No assignment shall impose any obligation on this Company until it has received the original or a duplicate thereof, nor does the Company guarantee the sufficiency or validity of any assignment.

*VII. Re-instatement.* Should this contract lapse for non-payment of premium it may, at any time, with the approval of the officers, be re-instated upon the insured furnishing satisfactory evidence of good health and the payment of past due premiums and any indebtedness with legal interest thereon.

*VIII.* Pursuant to law, a copy of the application for this contract is attached hereto. No alteration of this contract or waiver of any of its conditions shall be valid unless made in writing and signed by an officer of the Company.

*IX. Non-forfeiture Provisions.* If this Policy shall lapse through non-payment of premium after three years' premiums have been paid in cash, the Company, subject to the other conditions of the Policy, will guarantee the following options, as provided for in the table of values given below:

1st.—Will extend automatically, as term insurance, without participa-

tion, the net amount insured by this Policy, for the number of years and days named; or,

2d.—Will grant paid-up non-participating insurance, payable at death, for the sum provided for, upon written application by the owner of the Policy and the legal surrender of all claims hereunder to the Company at its Home Office within thirty days after such lapse; or,

3d.—Will pay the cash surrender value provided for, on surrender as aforesaid within thirty days from the date of lapse.

*X. Loan Value.* At any time after three years' premiums have been paid in cash, while the Policy is in force by payment of premiums, the Company will lend thereon, upon satisfactory assignment as collateral security, the sum provided for in the table of values given below. No loans will be made for a less sum than Fifty Dollars, and only in multiples of Five Dollars, and they shall be diminished by any indebtedness outstanding against the Policy.

Table of Extension, Paid-up, and Loan or Cash Values provided for by this contract, if no indebtedness exists against it.

At End of Year.	Term of Extension for this Policy.	These Values are for \$1000 Insurance For this Policy Multiply by 10.	
		Paid-up Insurance on Surrender.	Loan or Cash Surrender Values.
3rd .....	6 years 224 days	\$153.00	\$45.05
4th .....	8 " 332 "	204.00	72.28
5th .....	11 " 36 "	255.00	100.38
6th .....	13 " 15 "	306.00	129.41
7th .....	14 " 271 "	356.00	159.46
8th .....	16 " 77 "	407.00	190.50
9th .....	17 " 169 "	457.00	222.60
10th .....	18 " 195 "	506.00	255.78
11th .....	19 " 164 "	556.00	286.24
12th .....	20 " 88 "	605.00	317.68
13th .....	20 " 339 "	655.00	350.16
14th .....	21 " 197 "	704.00	383.70
15th .....	22 " 34 "	753.00	418.33
16th .....	22 " 228 "	802.00	454.11
17th .....	23 " 58 "	851.00	491.07
18th .....	23 " 267 "	900.00	529.31
19th .....	24 " 138 "	950.00	568.89
20th .....	Full paid	1,000.00	609.92

Should any indebtedness exist it shall be deducted from the Cash Value of the Policy, and the other Values shall be diminished proportionately.





Number

Amount \$.

Age 25

*The FIDELITY*  
*Mutual Life*  
INSURANCE COMPANY



OF PHILADELPHIA, PENNA.

By this Policy of Insurance agrees to pay the sum of

*Ten Thousand Dollars*

at its Head Office in the City of Philadelphia, to

*John Doe*

of *Philadelphia*, County of *Philadelphia*, State of *Pennsylvania*

(the insured under this policy)

on the *fourteenth* day of *August* in the year one thousand nine hundred and *twenty-five*, if then living, or if the said insured should die before that time, then to pay said sum upon the surrender of this policy properly receipted IMMEDIATELY after the acceptance of due and satisfactory proof of the fact and cause of death of the said insured and of claim hereunder to

*his wife, Mary Doe*

or if the insured survive the aforesaid beneficiary, to the administrators, executors, or assigns of the insured, subject to all the requirements, privileges and provisions stated on the following pages, which are conditions precedent, and are a material part of this contract as fully as if they were recited at length over the signatures hereto affixed.

THIS CONTRACT is made in consideration of the written application of the above-named insured, which is made a part hereof, a copy of which is hereto attached, and the payment in advance to said Company of *Five hundred six* <sup>00</sup>/<sub>100</sub> Dollars on the delivery of this policy, and thereafter to the Company at its Head Office in the City of Philadelphia, upon the *fourteenth* day of the month of *August* in every year until the premiums for *Twenty* full years shall have been duly paid to the said Company.

IN WITNESS WHEREOF, The Fidelity Mutual Life Insurance Company has caused the signatures of its President and Treasurer to be affixed, at its Head Office in Philadelphia, attested by its Secretary, this *fourteenth* day of *August* 1905.



Attest

*W. S. Campbell*  
Secretary

EXAMINED BY

*J. L. Jones*  
President  
*A. B. Phillips*  
Treasurer

## GENERAL PRECEDENT CONDITIONS.

The application, copy of which is given on third page, forms the sole basis of this contract, which shall not be operative or binding until the actual payment of the initial premium, and delivery of the policy during the lifetime and good health of the insured; the insured, with the written approval of the President or Vice-President, may, upon the surrender of this policy, change the beneficiary, or with such approval it may be assigned; notice of each and every premium due or to become due hereon is given and accepted by the delivery and acceptance of this policy; every premium is due and payable at the Head Office of the Company in the city of Philadelphia, but may be paid to an authorized agent or collector on or before the date when due in exchange for a receipt with the signatures of the President and Treasurer affixed, and countersigned by the authorized agent or collector to whom payment is made, as evidence of such payment to him; if any premium be not paid when due, or if any obligation given for premium be dishonored or not paid when due, this policy shall be void until duly reinstated during the lifetime and good health of the insured, but if it shall have been in force exceeding one year, it shall be extended and remain in force 30 days from due date, and if premium be not then paid with interest for the time taken at the rate of 5 per cent. per annum, or if any obligation given for premium be dishonored or not paid when due without grace, this policy shall be absolutely void, except as provided in the non-forfeiture clause, and after said period of thirty days, or non-payment of any such obligation, it can only be revived if the insured be in good health upon presentation of a re-instatement certificate signed by said insured, and upon the approval of the same by the President or Vice-President and Medical Director, but not otherwise; in the event of the death of the within-named insured, the claimant shall promptly give notice thereof, and furnish the necessary proofs; from any sum payable hereunder there shall be deducted the unpaid portion of the year's premium, if any, and any indebtedness of the insured or beneficiary to the Company on account of this contract or otherwise; no suit or action shall be maintained hereon unless actually begun within one year from the ascertained day of the death of the insured; after two years from the date hereof, if this policy shall have been in continuous force, it shall, in the event of the death of the insured, be incontestable for the sum payable hereunder, except for non-payment of premium; if the insured shall within such two years die by his own hand or act, whether sane or insane, the only amount payable hereunder shall be a sum equal to the premiums paid hereon with interest at the rate of 5 per cent. per annum; military or naval service in time of war, or traveling or residing south of the Tropic of Cancer, or north of the 60th degree north latitude, Western Hemisphere, requires the written consent of the President, and the payment of an extra premium, in order to avoid scaling of policy as provided by the rules of the Company; the reserve maintained hereon, or required by law, exclusive of the first policy year, shall be computed from an age one year greater than the age of actual issue, and shall be protected by the undisturbed surplus of the Company; the expense of management shall not exceed, excluding the

first policy year, the net premium loading; and any distributive share of surplus shall be applied according to the Company's rule applicable to its form of policy.

The premiums hereon may be paid annually, or in semi-annual or quarterly instalments in advance, in accordance with the Company's table of rates applicable hereto, but in any event, in consideration of the values being computed according to due date, this policy shall continue in force only until the due date of the next premium or instalment of premium, except as hereinbefore provided for extension if this policy shall have been in force exceeding one year.

#### SPECIAL PROVISIONS.

*Surplus.*—This policy from the date hereof, if kept in force and the insured be living and not otherwise, participates in the total surplus contributed by policies of its class according to its contributions to such surplus as determined by the Company, and its distributive share as apportioned by the Company will be applied annually after the fifth year to the reduction of premiums, or to the purchase of paid-up additions as the insured may elect. *Provided, always,* that the insured shall have the privilege of leaving the dividends with the company, for the purpose of (a) reducing the endowment period; or, (b) purchasing an annuity.

If policy be kept in force until the end of the endowment period, its remaining share of surplus as then determined and apportioned by the Company will be paid in cash in addition to the face of the endowment.

*Loan Value.*—After this policy shall have been in force three full years, the Company, within sixty days after written application therefor, will grant, in conformity with the rules then in force, a cash loan, with interest in advance at a rate not exceeding 6 per cent. per annum, of the amount stated in the table below; *provided, always,* that if the loan be for the full amount stated in the table below, it is subject to the payment of the premium for the ensuing year.

*Non-Forfeiture.*—After three full years' premiums shall have been paid, then, provided this policy be free from debt, upon the non-payment of any subsequent premium within the thirty days of grace, this policy is automatically extended for the time stated in the table below, corresponding to the number of full years' premiums paid, with the stated cash settlement at the end of the time if the insured be then living; or, if the policy be legally surrendered within three months from the date when such premium became due, a paid-up policy will be issued for endowment insurance, payable in accordance with the terms of this policy for the amount stated in the table below.

*Table of Guaranteed Values.*

For end of Year.	Cash Loan of	Or Paid-up Endowment Insurance.	Years.	Or Automatic Extension and Endowment, if Living. Months.	Cash.
3 .....	\$1090	\$1130	7	2	....
4 .....	1520	1700	10	11	....
5 .....	1970	2250	14	5	....
6 .....	2440	2810	14	..	\$790
7 .....	2900	3350	13	..	1580
8 .....	3370	3900	12	..	2390
9 .....	3870	4430	11	..	3150
10 .....	4380	4950	10	..	3870
11 .....	4910	5470	9	..	4600
12 .....	5450	6000	8	..	5270
13 .....	6020	6520	7	..	5920
14 .....	6620	7040	6	..	6590
15 .....	7240	7550	5	..	7180
16 .....	7880	8050	4	..	7770
17 .....	8550	8540	3	..	8380
18 .....	9260	9030	2	..	8930
19 .....	10000	9510	1	..	9490
	Cash value				
20 .....	10000	....	..	..	....

Should any indebtedness exist the values shall be diminished proportionately.

*Instalment Options.*—This policy is issued payable in one sum on the death of the insured, but the insured, by giving written notice at any time to the Company at its Head Office, accompanied by this policy for corresponding indorsement, provided this policy is not then assigned, may change the manner of such payment from one sum, as hereinafter provided in either the first or second options, and may give the beneficiary the right to commute any number or all of the instalments, exclusive of deferred annuity under second option, and receive in one sum the then present cash value of unpaid instalments; but without such written authority from the insured and indorsement hereon, the beneficiary shall not have such right. In the event of the death of the beneficiary after the maturity of this policy and before the payment of the total number of instalments payable hereunder, the executor or administrator of such beneficiary shall have the right to commute into one cash payment the then present value of unpaid instalments.

*First Option.*—The insured, by giving written notice and with indorsement hereon as aforesaid, may elect to have the insurance hereunder paid in any number of instalments he may designate, or have them commuted, as provided in the annexed table marked "A." Such change from one sum to the number of instalments selected will take effect when written in or indorsed on this policy by the Company, and when this policy shall have become a claim it may be exchanged on payment of first instalment for instalment certificates, containing the amount and date of maturity of each instalment.

The annexed table marked "A" is based upon \$1000. of insurance, and shall apply as a multiple, according to the amount payable under this policy in the event of the death of the insured while it is in force. If, however, the amount of this policy be less than \$1000. it shall be paid only in one sum and not in instalments.

Table A.

Number of Instalments	25	*20	*\$65	*\$70	*\$73	*\$77	*\$81	*\$85	*\$91	*\$97	*\$104	*\$113	*\$124	*\$138	*\$155	*\$170	*\$211	*\$261	*\$343	*\$507
Amount of Each	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
When 2d is due	.....	972	962	960	957	954	950	946	941	935	929	921	912	901	887	869	845	811	760	676
" 3d "	.....	944	924	910	913	906	899	890	881	870	856	841	822	800	771	735	686	617	514	343
" 4th "	.....	915	884	876	867	857	846	833	819	802	782	758	730	695	652	596	522	417	261	
" 5th "	.....	885	844	833	821	807	792	775	755	732	705	673	635	588	529	454	353	211		
" 6th "	.....	854	802	788	773	756	736	714	689	660	625	585	536	477	402	307	179			
" 7th "	.....	822	759	742	723	702	679	652	621	585	544	494	435	363	272	155				
" 8th "	.....	789	714	694	672	647	619	587	551	509	460	401	331	245	138					
" 9th "	.....	756	668	645	620	591	558	521	479	430	373	305	224	124						
" 10th "	.....	721	621	595	566	533	495	453	405	349	284	206	113							
" 11th "	.....	685	*573	543	510	473	431	383	329	265	192	104								
" 12th "	.....	648	523	490	452	411	364	311	250	179	97									
" 13th "	.....	610	471	434	393	347	295	236	169	91										
" 14th "	.....	571	418	378	332	282	225	160	85											
" 15th "	.....	531	364	319	270	214	152	81												
" 16th "	.....	489	307	259	205	145	77													
" 17th "	.....	447	249	197	139	73														
" 18th "	.....	403	190	133	70															
" 19th "	.....	357	128	67																
" 20th "	.....	311	65																	

VALUE OF COMPLETED INSTALLMENTS.

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\* EXPLANATION OF TABLE.—If 20 instalments be selected, the amount of each will be \$65. for each \$1000. insurance, payable each year for 20 years after the death of the insured. If the insured during his lifetime directs in writing, that after ten instalments of \$65, each have been paid, the beneficiary be given the right to commute the remaining ten into one sum, the then present value in cash will be \$573.

*Second Option.*—Or, at the written request of the insured and indorsement hereon as aforesaid, the Company upon the death of the said insured will pay twenty equal annual instalments of \$50. each to every \$1000. insurance hereunder, or the commuted present value thereof, and in such event this policy when it becomes a claim, may be exchanged for instalment certificates, as provided in the first option, together with a Deferred Annuity Policy, in accordance with the terms hereof, which shall provide that if the beneficiary hereunder be living twenty years after the death of the insured, and not otherwise, the said Company will pay thereafter to said beneficiary an annuity for life according to sum insured and the attained age of said beneficiary at the twentieth anniversary of the death of the insured specified in the annuity table marked "B," given on the second page of this policy, said table being based on \$1000. insurance. The first payment of such annuity shall be made to the beneficiary hereunder, if then living, one year from the date payable of the last or twentieth instalment as aforesaid, upon satisfactory proof of the age of said beneficiary being first given, and annually on the anniversary of such payment, and terminating with the date of the last payment preceding the death of said beneficiary; *Provided, always,* That the said Company shall be furnished at every payment of annuity with satisfactory evidence of the existence of the life of said beneficiary annuitant.

*Table B.*—Of deferred annuities referred to on third page of this policy, according to sum insured and the attained age of beneficiary.

ANNUITY RATE PER \$1000 INSURANCE.

Age of Beneficiary at time of twentieth anniversary of Death of Insured.	Annual Income or Annuity to begin Twenty Years after Death of Insured.	Age of Beneficiary at time of twentieth anniversary of Death of Insured.	Annual Income or Annuity to begin Twenty Years after Death of Insured.	Age of Beneficiary at time of twentieth anniversary of Death of Insured.	Annual Income or Annuity to begin Twenty Years after Death of Insured.
25	\$22.	46	\$30.	66	\$69.
26	22.	47	30.	67	74.
27	22.	48	31.	68	80.
28	22.	49	32.	69	86.
29	22.	50	33.	70	94.
30	22.	51	34.	71	103.
31	23.	52	35.	72	113.
32	23.	53	36.	73	125.
33	23.	54	37.	74	139.
34	24.	55	39.	75	156.
35	24.	56	40.	76	177.
36	24.	57	42.	77	202.
37	25.	58	44.	78	232.
38	25.	59	46.	79	270.
39	26.	60	48.	80	317.
40	26.	61	51.		
41	26.	62	54.		
42	27.	63	57.		
43	28.	64	60.		
44	28.	65	64.		
45	29				

*It is especially agreed,* That the first instalment under either the first or second options under this contract shall be due immediately upon receipt and approval of the proofs of death of the insured and of the justness of the claim; and subsequent instalments, if this policy be not then exchanged for instalment certificates as aforesaid, shall be paid annually thereafter on the anniversary day of the death of the insured until all instalments shall have been paid.

Copy of application upon which Policy No.                      is issued.

## APPLICATION.

I hereby apply to THE FIDELITY MUTUAL LIFE INSURANCE COMPANY of Philadelphia, Pa., for a POLICY OF INSURANCE, to be issued in pursuance of this application, and certify as follows:

1st. That my full name is . . . . ., that I was born on the . . . . . day of . . . . . A. D., 18. . . . , at . . . . .

2d. That I am now in good health, and am FREE from any and all diseases, sicknesses, ailments, or complaints, trivial or otherwise, except as here stated . . . . .

If ailment of any kind exists at this time, state character or nature of same.

3d. That my present occupation is . . . . .  
If more than one occupation, give all, and be specific.

prior was . . . . .

4th. That I have never had or been afflicted with any sickness, disease, ailment, injury, or complaint, except as here stated: . . . . .  
Give full particulars as to the

nature thereof, date and duration, whether trivial or otherwise—if rheumatism, state whether . . . . .  
muscular, sciatic or inflammatory.

5th. That the last physician I consulted or who prescribed for me was Dr. . . . . . of . . . . ., about . . . . .  
Give date.

for the sickness here stated: . . . . .  
Give nature and duration of illness, and if complete recovery, say so.

6th. That I have not consulted or been prescribed for by any physician or medical man during the last ten years, except as here stated: . . . . .  
Give date, nature of . . . . .  
illness, and name of every physician for last ten years.

7th. That I have never made application for insurance on my life, or for beneficial membership to or in any company, association, fraternal benefit, or other society, upon which application no policy or benefit certificate was or has yet been issued to me, or received by me, for the full amount and kind, and at the rate applied for, and that no physician has ever given an unfavorable opinion upon my life with reference to life or benefit insurance, except as here stated: . . . . .

Give name of each company, date of application, kind of policy, and amount applied for.

8th. That none of my immediate family, parents, brothers or sisters, nor, to the best of my knowledge and belief, grandparents, uncles and aunts, are now afflicted with, or ever had, or died of consumption, lung disease, scrofula, cancer, heart disease, paralysis, suicide, insanity, epilepsy, Bright's disease, diabetes, or any hereditary disease, except the following: .....

Give relationship, character and duration of illness in every case. Avoid any general terms—be specific.

9th. That I am not now, and have never been, engaged in the sale or manufacture of wines, spirits, or malt liquors, either directly or indirectly, except .....

Give dates and full particulars.

10th. That I do not use, and have never used, narcotics, and have never used daily exceeding two ounces of spirits, or two drinks of wines or malt liquors and have always been temperate and sober, except as stated below:

Answer must be specific—"moderately" or "occasionally" will not do. Give kind and daily quantity, and the number of times you have used them, or any of them, to extent of inebriation.

11th. That I am now insured in this Company, and that the total amount of insurance now on my life is \$....., the kinds of policies, dates of same, amounts, and respective companies being as follows: .....

Give name of each company, amount, kind and date of policy.

12th. That the money to keep said policy in force will be furnished by.....

13th. That the following are three intimate friends (not relatives) who have known me for the last two years:

FULL NAME.	OCCUPATION.	RESIDENCE.
.....	.....	.....
.....	.....	.....
.....	.....	.....

I hereby agree and bind myself as follows: That the truthfulness of each statement above made or contained, by whomsoever written, is material to the risk, and is the sole basis of the contract with the said Company; that I hereby warrant each and every statement herein made or contained to be full, complete and true; that I have signed this application in my own proper handwriting; that all provisions of law forbidding any physician who has attended or who shall or who may hereafter attend me from disclosing any and all information which he acquired or which he may or shall acquire by such attendance, together with any such provisions affecting the uses which shall



be made of this application, or any part hereof, are hereby expressly waived; that the policy issued hereon shall not become binding on the Company until the first payment due thereon shall have been actually received by the Company or its authorized agent and the policy delivered to me during my lifetime and continued good health; that no statement, to whomsoever or howsoever made, shall modify this contract or in any manner affect the rights of the Company, unless the same be reduced to writing, and be presented to and approved by the officers of the Company at the Head Office in Philadelphia, no agent of, or any other person on behalf of the Company having any power or authority to make or modify this or any contract of insurance, to grant credit, or to extend time for paying any premium, or to waive any forfeiture, or to bind the Company by making any promise, or by making or receiving any representation or information, it being agreed, that such powers can only be exercised in writing by the President, Vice-President, Actuary or Assistant Actuary of the Company at its Head Office, and shall not be delegated; that the proof of death and justness of claim shall be made upon the blank forms furnished by the Company, and shall include all information required thereby, or that may be called for by said Company in supplementary blanks; and that if any concealment or untrue statement or answer be made or contained herein, then the said policy and this contract shall be *ipso facto* null and void, and all moneys paid hereon, or on said policy, shall be forfeited to said Company; *Provided always*, that if the necessary payments be made to keep said policy in force, it shall, in the event of my death, be incontestable for the sum payable hereunder after two years; and that the policy applied for and this application shall be subject to and be construed according to the laws of the State of Pennsylvania, the place of said contract being agreed to be the Head Office of the Company in the City of Philadelphia, Pa.

Dated at ....., this ..... day of .....  
 19... Witness: ..... Signature of ap-  
The witness should be the soliciting agent.  
 plicant must be in his own proper handwriting .....



INCORPORATED AS A STOCK COMPANY BY THE STATE OF NEW JERSEY.

# THE PRUDENTIAL

## INSURANCE COMPANY

OF AMERICA

Hereby Insured the life of the person herein designated as the Insured, and agrees to pay the benefit stipulated in the following Schedule, subject to the Conditions, Privileges and Provisions contained on the second and third pages hereof, which are hereby made a part of this contract.

### SCHEDULE

NAME OF INSURED			TABLE OF BENEFITS IF INSURED IS LESS THAN TEN YEARS OF AGE NEXT BIRTHDAY, FOR A WEEKLY PREMIUM OF TEN CENTS.									
Age next birthday	Benefit if Insured is not less than ten years of age next birthday	Weekly Premium	BENEFIT PAYABLE IF POLICY HAS BEEN IN FORCE FOR									
			AGE NEXT BIRTHDAY AT DATE OF POLICY									
Years.	\$	Cents	2	3	4	5	6	7	8	9		
			Less than three months.....	\$16	\$18	\$20	\$22	\$24	\$28	\$32	\$40	
			More than 3 months but less than 6 months...	20	28	36	44	52	60	70	100	
			More than 6 months but less than 9 months...	24	28	32	36	44	52	70	100	
			More than 9 months but less than 1 year .....	30	34	40	48	56	70	100	150	
			One year.....	34	40	48	56	78	110	160	240	
			Two years.....	40	48	56	66	88	120	170	240	
			Three "	48	58	68	80	100	140	200	240	
			Four "	58	70	84	100	120	160	200	240	
			Five "	70	84	100	120	140	180	200	240	
			Six "	84	100	120	140	160	180	200	240	
			Seven "	100	120	140	160	180	200	240	240	
			Eight "	120	140	160	180	200	240	240	240	

If the Insured shall die within six calendar months from the date hereof, the Company will pay only one-fourth of this sum. If the Insured shall die after six months and within one year from the date hereof, the Company will pay only one-half of this sum. After one year from its date the Policy will be in force for the full amount.

ONE-HALF THE ABOVE AMOUNTS WILL BE PAID FOR A WEEKLY PREMIUM OF FIVE CENTS.

SPECIAL NOTICE: NO CLAIM WILL BE PAID UNLESS INSURED IS OVER ONE YEAR OF AGE AT DATE OF POLICY

*Edw. D. Ward*  
Vice President

*John F. Dryden*  
President

WHOLE LIFE POLICY

## CONDITIONS.

This insurance is granted in consideration of the weekly premium hereinbefore stated, which shall be paid to the Company or to its authorized representative on or before every Monday during the continuance of this contract.

The amount of benefit provided in the Schedule on the first page hereof, and any additions thereto, shall be paid by the Company at its Home Office in the City of Newark, New Jersey, unto the executors, administrators or assigns of the Insured, unless settlement shall be made as provided in article second under the head of "Provisions," below, immediately upon acceptance of satisfactory proof of the death of the Insured during the continuance of this Policy.

## PRIVILEGES.

*If this policy is continued in force, it will become entitled to an additional benefit, cash dividends and a cash surrender value, as follows:*

*After Five Years—Additional Benefit.*—If the insured shall die after FIVE YEARS from the date hereof, the Company will pay, in addition to the Benefit herein provided, an amount to be determined from the tables of Additional Benefits issued by the Company for the year in which death occurs.

*After Fifteen Years—Cash Dividends.*—At the end of FIFTEEN YEARS from the date hereof and at the end of EACH FIFTH YEAR THEREAFTER, this Policy, if in force, will be credited with a Dividend from the surplus apportioned by the Company to policies of the same class, payable in Cash to the Insured, unless payment shall be made as provided in article second under the head of "Provisions," below.

*After Twenty Years—Cash Surrender Value.*—At the end of TWENTY YEARS from the date hereof or at the end of ANY FIFTH YEAR THEREAFTER, the Company will pay to the Insured as a Cash Surrender Value for this Policy the amount fixed by the following table, provided this Policy is legally surrendered to the Company within three months after the end of said twenty years or of any fifth year thereafter.<sup>1</sup>

*Or, if This Policy is Lapsed After Three Years—Paid-up Policy.*—If this Policy shall become forfeited for the non-payment of any premium after having been in force three full years, and the Insured shall be over thirteen years of age at date of such forfeiture, the Company will grant a non-participating Paid-up Policy in accordance with Chapter 356 of the Laws of 1895 of the State of New Jersey.

## PROVISIONS.

1st. *Preliminary Provision.*—No claim will be paid on this Policy in case of the death of the Insured before the date hereof, nor unless on said date the Insured was alive and in sound health.

2d. *Facility of Payment.*—The Company may make any payment provided for in this Policy to any relative by blood or connection by marriage of the Insured, or to any other person appearing to said Company to be equitably entitled to the same by reason of having incurred expense in any way on

<sup>1</sup>See table on following page.

## CASH SURRENDER VALUE.

*At end of twenty years or of any fifth year thereafter if policy is continued in force.*

The amounts in the following table are based on a weekly premium of ten cents. If the weekly premium on this Policy is other than ten cents, the amounts in this table will be changed proportionately. For example, if this Policy is subject to a premium of five cents per week, the Cash Surrender Value will be one-half the amount in this table. If the premium is twenty cents per week, the Cash Surrender Value will be double the amount in this table, and so on.

AGE WHEN INSURED	End of 20 Years	End of 25 Years	End of 30 Years	End of 35 Years	End of 40 Years	AGE WHEN INSURED	End of 20 Years	End of 25 Years	End of 30 Years	End of 35 Years	End of 40 Years
2	\$17 00	\$26 00	\$36 00	\$49 00	\$63 00	37	\$39 00	\$50 00	\$60 00	\$70 00	\$79 00
3	19 00	28 00	39 00	51 00	66 00	38	39 00	50 00	60 00	70 00	79 00
4	20 00	30 00	41 00	54 00	69 00	39	39 00	49 00	60 00	69 00	78 00
5	22 00	32 00	44 00	57 00	72 00	40	38 00	49 00	59 00	68 00	76 00
6	24 00	34 00	46 00	60 00	76 00	41	38 00	49 00	59 00	67 00	75 00
7	26 00	36 00	49 00	63 00	79 00	42	38 00	48 00	57 00	66 00	73 00
8	28 00	39 00	51 00	66 00	82 00	43	38 00	47 00	56 00	64 00	71 00
9	30 00	41 00	54 00	69 00	86 00	44	38 00	47 00	56 00	64 00	71 00
10	32 00	44 00	57 00	72 00	89 00	45	37 00	46 00	54 00	62 00	69 00
11	33 00	44 00	58 00	72 00	91 00	46	37 00	46 00	54 00	61 00	68 00
12	33 00	45 00	58 00	72 00	92 00	47	36 00	45 00	52 00	59 00	66 00
13	33 00	45 00	58 00	72 00	92 00	48	36 00	44 00	52 00	59 00	65 00
14	33 00	45 00	58 00	72 00	91 00	49	36 00	44 00	51 00	58 00	64 00
15	33 00	45 00	58 00	72 00	90 00	50	35 00	42 00	49 00	56 00	61 00
16	33 00	45 00	58 00	72 00	90 00	51	35 00	42 00	49 00	55 00	60 00
17	33 00	45 00	58 00	72 00	87 00	52	33 00	40 00	47 00	53 00	58 00
18	33 00	45 00	58 00	72 00	87 00	53	33 00	40 00	46 00	52 00	56 00
19	33 00	45 00	58 00	72 00	87 00	54	32 00	39 00	45 00	51 00	55 00
20	33 00	45 00	58 00	72 00	87 00	55	31 00	37 00	43 00	48 00	52 00
21	33 00	45 00	58 00	72 00	87 00	56	30 00	37 00	42 00	47 00	.....
22	34 00	46 00	59 00	73 00	87 00	57	30 00	36 00	41 00	46 00	.....
23	34 00	46 00	59 00	73 00	87 00	58	29 00	35 00	40 00	45 00	.....
24	35 00	47 00	60 00	73 00	87 00	59	27 00	33 00	38 00	42 00	.....
25	35 00	47 00	60 00	73 00	87 00	60	27 00	32 00	37 00	40 00	.....
26	35 00	47 00	60 00	73 00	86 00	61	26 00	31 00	36 00	.....	.....
27	36 00	48 00	60 00	73 00	86 00	62	25 00	30 00	35 00	.....	.....
28	37 00	49 00	61 00	74 00	86 00	63	24 00	29 00	33 00	.....	.....
29	37 00	49 00	61 00	74 00	86 00	64	24 00	28 00	32 00	.....	.....
30	37 00	49 00	61 00	74 00	85 00	65	23 00	27 00	30 00	.....	.....
31	38 00	50 00	62 00	74 00	85 00	66	22 00	26 00	.....	.....	.....
32	38 00	50 00	62 00	74 00	85 00	67	22 00	26 00	.....	.....	.....
33	38 00	50 00	62 00	73 00	84 00	68	22 00	25 00	.....	.....	.....
34	38 00	50 00	61 00	72 00	82 00	69	21 00	24 00	.....	.....	.....
35	39 00	50 00	61 00	72 00	82 00	70	20 00	23 00	.....	.....	.....
36	39 00	50 00	61 00	72 00	81 00						

NOTE.—To the Cash Surrender Value, as above, if applied for, will be added the Cash Dividend for the corresponding Five-Year Dividend period, if such Dividend has not already been paid before this Policy is legally surrendered to the Company. Table of Cash Values after forty years will be furnished on application.

behalf of the Insured, for his or her burial or for any other purpose, and the production by the Company of a receipt signed by any or either of said persons or of other sufficient proof of such payment to any or either of them shall be conclusive evidence that such Benefits have been paid to the person or persons entitled thereto, and that all claims under this Policy have been fully satisfied.

3d. *Policy When Void.*—This Policy shall be void if there is in force upon the life of the Insured an Industrial Policy previously issued by this Company, unless the Policy first issued contains an endorsement, signed by

the President or Secretary, authorizing this Policy to be in force at the same time; or if any of the representations upon which this Policy is granted are not true; or if the said weekly premium shall not be paid according to the terms hereof; *or if the person insured is under twelve years of age next birthday and is now or may hereafter be insured while under such age in this or any other company and the total premiums on such insurances shall exceed ten cents per week. If for any cause this Policy be or become void, all premiums paid hereon shall be forfeited to the Company except as provided herein.*

4th. *Payment of Premiums.*—All premiums are payable at the Home Office of the Company, but may be paid to an authorized representative of the Company; but payments to be recognized by the Company must be entered at the time of payment in the premium receipt book belonging with this Policy. If for any reason the premium is not called for when due, by an authorized representative of the Company, it shall be the duty of the policy-holder, before said premium shall be in arrears four weeks, to bring or send said premium to the Home Office of the Company or to one of its district offices.

5th. *Period of Grace.*—Should the Insured die while the premium on this Policy is in arrears for a period not exceeding four weeks, the Company will pay the Benefits provided herein, subject to the conditions of the Policy.

6th. *Revival of Policy.*—If this Policy is lapsed for non-payment of premium, it will be revived within one year from the date to which premiums have been duly paid upon payment of all arrears, provided evidence of the insurability of the Insured satisfactory to the Company be furnished.

7th. *Alterations and Waivers.*—No person, except the President, one of the Vice-Presidents, the Secretary, the Assistant Secretary or the Actuary of the Company, can alter this contract or waive any condition, privilege or provision thereof.

8th. *Limitation.*—No suit on this Policy shall be maintainable against the Company unless brought within one year next after the date of death of the Insured.

9th. *Incontestability.*—If the Insured shall die one or more years after the date thereof, and if all due premiums shall have been paid, and full proof of death given to the Company within one year next after the death of the Insured, this Policy shall be incontestable.

10th. *Misstatement of Age.*—The Benefits provided in this policy may be adjusted for misstatement of age.

#### SPECIAL PRIVILEGE.

*This Policy, if not satisfactory to the Insured, may be surrendered within two weeks after its date at the office of the Superintendent whose name appears on the premium receipt book accompanying this Policy, and the premiums paid hereon will be returned to the Insured.*

# COPY OF FRATERNAL BENEFIT CERTIFICATE ISSUED BY THE ANCIENT ORDER OF UNITED WORKMEN

No. ....

\$2,000

PLAN .....

This certificate, issued by the Supreme Lodge of the Ancient Order of United Workmen, witnesseth:

That Brother ..... a Workman Degree Member of ..... Lodge, No. .... of said order, located at ..... in the State of ..... is entitled to all the rights, benefits and privileges of membership in the Ancient Order of United Workmen, and to designate the beneficiary to whom the sum of *two thousand dollars* of the Beneficiary Fund of the Order shall at his death be paid (less the unpaid portion of assessments hereon, if any.)

This certificate is issued subject to, and is to be construed and controlled by the laws of the Order as they now are or as they may hereafter be changed or amended, which are hereby made a part hereof. He designates as beneficiary under the terms hereof ..... bearing to him the relation of .....

No suit shall be brought for the collection of any sum due or payable under this certificate, or under any laws of the Ancient Order of United Workmen, unless the same shall be commenced within two years from the date of the death of the member named herein.

SEAL OF  
SUPREME LODGE

IN WITNESS WHEREOF, the Supreme Lodge has caused this to be signed by its Supreme Master Workman and Supreme Recorder, and the seal thereof to be attached this ..... day of ..... one thousand nine hundred and .....

.....Supreme Master Workman.  
.....Supreme Recorder.

I hereby accept this certificate, subject to all its conditions and the laws of the Order.

ATTEST:

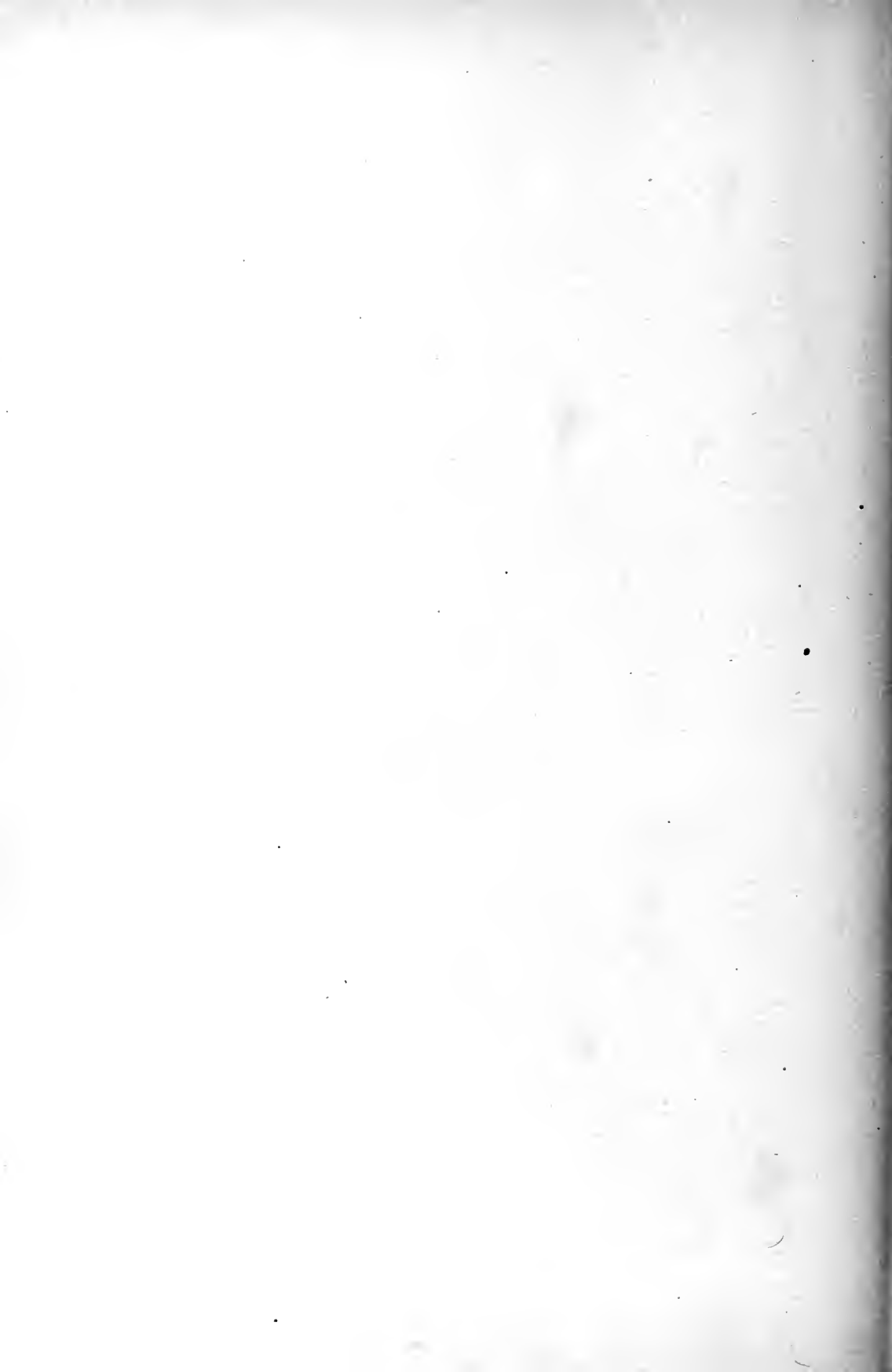
WE, THE UNDERSIGNED Master Workman and Recorder of ..... Lodge, No. ...., do hereby certify that ..... to us known, has this day in our presence accepted and signed the above certificate, and we hereby countersign and attach the seal of this Lodge thereto, this ..... day of ..... 19....

SEAL OF  
SUBORDINATE LODGE

.....Master Workman.

ATTEST:

.....Recorder.





## COPY OF LLOYD'S FORM OF POLICY

S. G.	BE IT KNOWN THAT	as well in      own name
=====	as for and in the name of all and every other person or persons	
£	to whom the same doth, may, or shall appertain, in part or in	
=====	all, doth make assurance and cause      and them and every	
	of them to be insured, lost or not lost, at and from	

upon any kinds of goods and merchandises and also upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of and in the good ship or vessel called the \_\_\_\_\_, whereof is master, under God for this present voyage, \_\_\_\_\_, or whosoever else shall go for Master in the said ship or by whatsoever other name or names the same ship, or the Master thereof, is or shall be named or called, beginning the adventure upon the said goods and merchandises from the loading thereof aboard the said ship, upon the said ship, her tackle, apparel, etc., \_\_\_\_\_ and shall so continue and endure, during her abode there, upon the said ship, etc.; and further until the said ship, with all her ordnance, tackle, apparel, etc., and goods and merchandises whatsoever, shall be arrived at port of discharge as above and upon the said ship, etc., until she hath moored at anchor twenty-four hours in good safety, and upon the goods and merchandises until the same be there discharged and safely landed; and it shall be lawful for the said ship, etc., in this voyage to proceed and sail to, and touch and stay at any port or place whatsoever, \_\_\_\_\_ without prejudice to this Insurance. The said ship, her tackle, apparel, etc., goods and merchandise, etc., for so much as concerns the assured, by agreement between the assured and assurers in this Policy, are and shall be valued at \_\_\_\_\_.

Touching the adventures and perils which we, the Assurers, are contented to bear and do take upon us in this voyage, they are: of the seas, men-of-war, fire, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, surprisal, taking at sea, arrests, restraints, and detainments of all Kings, Princes, and People, of what nation, condition or quality soever: barratry of the Master and Mariners, and of all perils, losses, and misfortunes, that have or shall come to the hurt, detriment or damage of the said goods and merchandises and ship, tackle, apparel, etc., or any part thereof; and in case of any loss or misfortune, it shall be lawful to the Assured, their factors, servants, and assigns, to sue, labour, and travel for, in and about the defence, safeguard, and recovery of the said goods and merchandises and ship, etc., or any part thereof, without prejudice to this Insurance; to the charges whereof we, the Assurers, will contribute each one according to the rate and quantity of his sum herein assured. And it is agreed by us, the Insurers, that this Writing or Policy of Assurance shall be of as much force and effect as the surest Writing or Policy of Assurance heretofore made in Lombard Street,

or in the Royal Exchange, or elsewhere in London. And so we, the Assurers, are contented, and do hereby promise and bind ourselves, each one for his own part, our heirs, executors, and goods, to the Assured, their executors, administrators, and assigns, for the true performance of the premises, confessing ourselves paid the consideration due unto us for this Assurance by the Assured at and after the rate of

In Witness whereof we the Assurers have subscribed our names and sums assured in

*(Signatures of the Underwriters)*

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N. B.—Corn, fish, salt, fruit, flour and seed are warranted free from Average, unless general, or the ship be stranded: sugar, tobacco, hemp, flax, hides and skins are warranted free from Average under Five Pounds per cent.; and all other goods, also the ship and freight, are warranted free from Average under Three Pounds per cent., unless general, or the ship be stranded.

## SPECIMEN OF AN INSURANCE POLICY ON VESSEL

BY THE ATLANTIC MUTUAL INSURANCE COMPANY. INo.....]

.....ON ACCOUNT OF .....

In case of loss to be paid in funds current in the  
United States, or in the city of New York, to

Do make Insurance, and cause to be insured, at and from

the day of 190 , at noon, until the day of 190 , at noon,

if on a passage on the expiration of the term, with liberty to the assured to renew the Policy for one, two or three months, at the same rate of premium, if application be made to the Company on or before the expiration of the first term. The risk, however, is to terminate at any port at which she may first arrive during the said extended time, on her being moored therein twenty-four hours in good safety; a pro rata premium to be returned for each entire month not entered upon the extended time, there being no loss or other claims made. Warranted not to use ports on the Continent of Europe north of Hamburg, between 1st November and 1st March; nor the Gulf of or River St. Lawrence, except between the 1st of June and 15th of September; nor foreign ports and places in the Gulf of Mexico, nor ports or places on the West coast of America north of Puget Sound during the period insured; nor to load more than her registered under deck tonnage capacity with lead, marble, coal, and or iron, on any one passage; (excepting on coastwise passages between Atlantic ports of the United States). Each passage subject to separate average.

upon the body, tackle, apparel and other furniture,

of the good.....called the .....  
whereof is master for this present voyage,  
in the said vessel, or by whatever other name or names the said vessel, or the master thereof is or shall be named or called.

AND it shall and may be lawful for the said vessel, in her voyage, to proceed and sail to, touch and stay at, any ports or places, if thereunto obliged by stress of weather or other unavoidable

AND IT IS FURTHER AGREED, that if the vessel hereby insured shall in consequence of collision with another vessel, become liable to pay, and shall pay, any sum or sums for damages resulting therefrom to said other vessel, her freight or her cargo, in such case this Company as stated herein, provided that this Company shall not in any event be held liable under this agreement for a greater sum than three-fourths of the amount insured under this Policy. AND IT IS ALSO AGREED that this Company will bear a like proportionate share of the costs and expenses that may be incurred in contesting the liability resulting from said collision, provided the written consent of the Company to such contest be first obtained. But under no circumstances shall this Company be held liable for any contribution in respect of and sum that the assured may be held liable to pay, by reason of loss of life or personal injury to individuals in any cause whatsoever.

Warranted by the assured not to use any of the Guano Islands, nor to load Lime under deck. In case of claim for loss or damage, a deduction of one-third from the cost of repairing or replacing the same shall be made, after deducting the value of the old materials, except in the case of anchors, and of sheathing of copper or other metal; a deduction of one-fortieth from the expense of repairing or replacing the metal sheathing, or any part thereof, (after first deducting the value of the old metal and nails), shall be made for every month since the vessel was last sheathed until the expiration of forty months, after which time the cost of re-metalling or repairing the same shall be wholly borne by the assured. If a technical total loss be claimed, similar deductions shall be made from the estimated repairs, and unless the net cost thereof would exceed a moiety of the insured value of the vessel, as expressed in this policy, after making such deductions, the loss shall be deemed partial only.

able accident, without prejudice to this insurance. The said vessel, tackle, etc., hereby insured, are valued at

without any further account to be given by the assured, to the assurers, or any of them, for the same.

TOUCHING the adventures and perils which the said ATLANTIC MUTUAL INSURANCE COMPANY is contented to bear, and takes upon itself in this voyage, they are of the seas, men-of-war, fires, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, reprisals, takings at sea, arrests, restraints and detentions of all kings, princes or people of what nation, condition or quality soever, barratry of the master and mariners, and all other perils, losses and misfortunes, that have or shall come to the hurt, detriment or damage of the said vessel, or any part thereof. AND in case of any loss or misfortune, it shall be lawful and necessary to and for the assured, factors, servants and assigns, to sue, labor and travel for, in and about the defence, safeguard and recovery of the said vessel, or any part thereof, without prejudice to this insurance, to the charges whereof, the said Insurance Company will contribute according to the rate and quantity of the sum herein insured, nor shall the acts of the insured or insurers, in recovering, saving and preserving the property insured, in case of disaster, be considered a waiver or an acceptance of an abandonment; having been paid the consideration for this insurance, by the assured or assigns, at and after the rate of

AND in case of loss, such loss to be paid in thirty days after proof of loss, and proof of interest in the said (the amount of the Note given for the premium, if unpaid, being first deducted), but no partial loss or particular average shall in any case be paid, unless amounting to five per cent. PROVIDED ALWAYS, and it is hereby further agreed, That if the said assured shall have made any other assurance upon the premises aforesaid, prior in day of date to this policy, then the said ATLANTIC MUTUAL INSURANCE COMPANY shall be answerable only for so much as the amount of such prior assurance may be deficient towards fully covering the premises hereby assured; and the said ATLANTIC MUTUAL INSURANCE COMPANY shall return the premium upon so much of the sum by them assumed, as they shall be by such prior assurance exonerated from.

AND in case of any insurance upon the said premises, subsequent in day of date to this policy, the said ATLANTIC MUTUAL INSURANCE COMPANY shall nevertheless be answerable for the full extent of the sum by them subscribed hereto, without right to claim contribution from such subsequent assurers, and shall accordingly be entitled to retain the premium by them received, in the same

SUM INSURED

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Warranted by the assured free from claim on account of capture, seizure, detention or destruction by or arising from hostile forces, civil commotions, riots, or by the acts of officers or other persons acting in the name of belligerents, or in pursuing warlike operations whether before or after declaration of war.

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PREMIUM

\$

Proof of loss to be authenticated by the Agent of the Company, if there be one at the place such proofs are taken.

manner as if no such subsequent assurance had been made. Other insurance upon the premises aforesaid, of date the same day as this policy, shall be deemed simultaneous herewith, and the said ATLANTIC MUTUAL INSURANCE COMPANY shall not be liable for more than a ratable contribution in the proportion of the sum by them insured to the aggregate of such simultaneous insurance. It is ALSO AGREED, that the property be warranted by the assured free from any charge, damage or loss, which may arise in consequence of a seizure or detention, for or on account of any illicit or prohibited trade, or any trade in articles contraband of war. And it is further agreed, That in case a total loss shall be claimed, for or on account of any damage or charge to the said vessel, the only basis of ascertaining her value shall be her valuation in this policy; and if not valued herein, then her actual value at the time of the inception of this risk at the port to which she then belonged. AND LASTLY, it is agreed, that if the above vessel, upon a regular survey, should thereby be declared unseaworthy, by reason of her being unsound or rotten, or incapable of prosecuting her voyage on account of her being unsound or rotten, then the assurers shall not be bound to pay their subscription on this Policy.

Warranted not to abandon in case of capture, seizure, or detention, until after condemnation of the property insured; nor until ninety days after notice of said condemnation is given to this Company. Also warranted not to abandon in case of blockade, and free from any expense in consequence of capture, seizure, detention or blockade; but in the event of blockade, to be at liberty to proceed to an open port and there end the voyage.

IN WITNESS WHEREOF, the President or Vice-President of the said ATLANTIC MUTUAL INSURANCE COMPANY hath hereunto subscribed his name, and the sum insured, and caused the same to be attested by their Secretary in New-York, the                      day of                      one thousand nine hundred and

\* If the voyage aforesaid shall have been begun and shall have terminated before the date of this policy, then there shall be no return of premium in account of such termination of the voyage.

In all cases of return of premium, in whole or in part, *one-half per cent.*, upon the sum insured, is to be retained by the assurers.

§ ..... ,

Secretary.

President.

## SPECIMEN OF INSURANCE POLICY ON CARGO

BY THE ATLANTIC MUTUAL INSURANCE COMPANY. [No.....]

.....ON ACCOUNT OF.....

In case of loss to be paid in funds current in the  
United States, or in the city of New York, to

Do make Insurance and cause to be insured, lost or not lost, at and from

upon all kinds of lawful goods and merchandises, laden or to be laden on board

the good.....called the  
whereof is master for this present voyage,  
vessel, or by whatever other name or names the said vessel, or the master thereof, is or shall be named or called.

BEGINNING the adventure upon the said goods and merchandises, from and immediately following the loading thereof on board of the said vessel, at as aforesaid, and so shall continue and endure until the said goods and merchandises shall be safely landed at as aforesaid. AND it shall and may be lawful for the said vessel, in her voyage, to proceed and sail to, touch and stay at, any ports or places, if thereunto obliged by stress of weather, or other unavoidable accident, without prejudice to this insurance. The said goods and merchandises, hereby insured, are valued (premium included) at

TOUCHING the adventures and perils which the said ATLANTIC MUTUAL INSURANCE COMPANY is contented to bear, and takes upon itself in this voyage, they are of the seas, men-of-war, fires, enemies, pirates, rovers, thieves, felonies, letters of mart and countermart, reprisals, takings at sea, arrests, restrainments and detentions of all kings, princes or people of what nation, condition or quality soever, barratry of the master and mariners, and all other perils, losses and misfortunes, that have or shall come to the hurt, detriment or damage of the said goods and merchandises, or any part thereof. AND in case of any loss or misfortune, it shall be lawful and necessary to and for the assured, factors, servants and assigns, to sue, labor and travel for, in and about the defence, safeguard and recovery of the said goods and merchandises or any part thereof, without prejudice to this insurance; nor shall

Warranted by the assured not to be loaded in excess of her registered tonnage with either lead, marble, stone, coal or iron; also warranted not to be loaded with lime under deck; and if loading with grain, warranted to be loaded under the inspection of the Surveyor of the Board of Underwriters, and his certificate as to the proper loading and seaworthiness obtained.

- 12.] Warranted by the assured free from claim on account of capture, seizure, detention or destruction, by or arising from hostile forces, civil commotions, riots or by the acts of officers or other persons acting in the name of belligerents, or in pursuing warlike operations whether before or after declaration of war.

the acts of the insured or insurers, in recovering, saving and preserving the property insured, in case of disaster, be considered a waiver or an acceptance of an abandonment; to the charges whereof, the said Insurance Company will contribute according to the rate and quantity of the sum herein insured, having been paid the consideration for this insurance; by the assured or assigns, at and after the rate of

AND in case of loss, such loss to be paid in thirty days after proof of loss, and proof of interest in the said (the amount of the Note given for the premium, if unpaid, being first deducted), but no partial loss or particular average shall in any case be paid, unless amounting to *five per cent*. PROVIDED ALWAYS, and it is hereby further agreed, That if the said assured shall have made any other assurance upon the premises aforesaid, prior in day of date to this policy, then the said ATLANTIC MUTUAL INSURANCE COMPANY shall be answerable only for so much as the amount of such prior assurance may be deficient towards fully covering the premises hereby assured; and the said ATLANTIC MUTUAL INSURANCE COMPANY shall return the premium upon any insurance upon the said premises, subsequent in day of date to this policy, the said ATLANTIC MUTUAL INSURANCE COMPANY shall nevertheless be answerable for the full extent of the sum by them subscribed hereto, without right to claim contribution from such subsequent assurers, and shall accordingly be entitled to retain the premium by them received, in the same manner as if no such subsequent assurance had been made. Other insurance upon the premises aforesaid, or date the same day as this policy, shall be deemed simultaneous herewith; and the said ATLANTIC MUTUAL INSURANCE COMPANY shall not be liable for more than a ratable contribution in the proportion of the sum by them insured to the aggregate of such simultaneous insurance. IT IS ALSO AGREED, that the property be warranted by the assured free from any charge, damage or loss, which may arise in consequence of a seizure or detention, for or on account of any illicit or prohibited trade or any trade in articles contraband of war.

Warranted not to abandon in case of capture, seizure, or detention, until after condemnation of the property insured; nor until ninety days after notice of said condemnation is given to this Company. Also warranted not to abandon in case of blockade, and free from any expense in consequence of capture, seizure, detention or blockade; but in the event of blockade, to be at liberty to proceed to an open port and there end the voyage.

IN WITNESS WHEREOF, the President or Vice-President of the said ATLANTIC MUTUAL INSURANCE COMPANY hath hereunto subscribed his name, and the sum insured, and caused the same to be attested by their Secretary, in New-York, the day of

one thousand nine hundred and

MEMORANDUM. It is also agreed, that bar, bundle, rod, hoop and sheet iron, wire of all kinds, tin plates, steel, madder, sumac, wicker-ware and willow (manufactured or otherwise), salt, grain of all kinds, tobacco, indian meal, fruits (whether preserved or otherwise), cheese, dry fish, hay, vegetables and roots, rags, hempen yarn, bags, cotton bagging, and other articles used for bags or bagging, pleasure carriages, household furniture, skins and hides, musical instruments, looking glasses, and all other articles that are perishable in their own nature, are warranted by the assured free from average, unless general; hemp, tobacco stems, matting and cassia, except in

Proof of loss to be authenticated by the Agent of the Company, if there be one at the place such proofs are taken.

SUM INSURED

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[553]

PREMIUM

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boxes, free from average under *twenty per cent.*, unless general; and sugar, flax, flax-seed and bread, are warranted by the assured free from average under *seven per cent.*, unless general; and coffee in bags or bulk, pepper in bags or bulk, and rice, free from average under *ten per cent.*, unless general.

Warranted by the insured free from damage or injury, from dampness, change of flavor, or being spotted, discolored, musty or mouldy, except caused by actual contact of sea water with the articles damaged, occasioned by sea perils. In case of partial loss by sea damage to dry goods, cutlery or other hardware, the loss shall be ascertained by a separation and sale of the portion only of the contents of the packages so damaged, and not otherwise; and the same practice shall obtain as to all other merchandise as far as practicable. Not liable for leakage on molasses or other liquids, unless occasioned by stranding or collision with another vessel.

If the voyage aforesaid shall have been begun and shall have terminated before the date of this policy, then there shall be no return of premium on account of such termination of the voyage.

In all cases of return of premium, in whole or in part, *one-half per cent.*, upon the sum insured, is to be retained by the assurers.

§ .....

Secretary.

President.



## POLICY OF ACCIDENT INSURANCE.

IN CONSIDERATION OF..... dollars premium and the statements contained in the Schedule of Statements attached hereto and hereby made a part hereof, which statements the Insured makes and warrants to be true by the acceptance of this Policy, the United States Casualty Company, herein called the Company, *insures*, subject to the provisions and definitions and limits herein,

..... of .....

herein called the Insured, for one year beginning at noon, standard time, on the ..... day of ....., 190..., *against loss* as herein provided caused by bodily injury effected exclusively and directly by external and violent and accidental means which, independently of any and all other causes, immediately and wholly and continuously disables him, to wit:

### SINGLE INDEMNITIES:

Loss of Life .....	\$5,000.00	Loss of One Hand .....	\$2,000.00
Loss of Both Eyes.....	5,000.00	Loss of One Foot .....	2,000.00
Loss of Both Hands .....	5,000.00	Loss of One Eye .....	1,700.00
Loss of Both Feet .....	5,000.00	Total Loss of Time .....	25.00
Loss of One Hand and One		Per Week, not to Exceed 200 Consecutive	
Foot .....	5,000.00	Weeks.	
Loss of One Leg.....	3,000.00	Partial Loss of Time.....	12.50
Loss of One Arm .....	2,500.00	Per Week, not to Exceed 30 Consecutive	
		Weeks.	

### DOUBLE INDEMNITIES:

If such injury is sustained while riding as a passenger in or on a place provided for the regular occupancy of passengers in a railway train or street car propelled by cable or compressed air or electricity or gasoline or naphtha or steam and provided by a common carrier for the regular transportation of passengers only,—*or* while a passenger on board a steam vessel licensed for the regular transportation of passengers,—*or* while a passenger in an elevator provided for passenger service,—*or* in consequence of the burning of a building while therein, *the liability for any loss specified above shall be doubled.* Double indemnities shall not apply to injuries, fatal or non-fatal, sustained while getting on or off or while on the step or steps of any railway train or street car.

## SPECIAL INDEMNITIES:

*The liability for any loss specified above when such injury is caused by freezing, the involuntary and unconscious inhalation of gas or other poisonous vapor, hydrophobia or sunstroke, shall be the single indemnity provided for such loss.*

## OPTIONAL INDEMNITIES:

If such injury results in the complete fracture of a bone specified in the schedule of fractures, *the Insured may elect to receive*, in lieu of all other indemnity specified above, the amount stipulated in said schedule for such fracture, provided written notice of his choice be given by the Insured to the Company at its Home Office in New York within 2 weeks of the event causing the injury, the Company not to be liable under said schedule for more than one fracture resulting from one cause of accident.

## SCHEDULE OF FRACTURES:

<i>Optional indemnity for loss caused by the complete fracture of the bones of the</i>	
Pelvis .....	\$400.00
Skull, if both tables are fractured .....	350.00
Thigh .....	350.00
Knee Cap .....	300.00
Pott's Fracture (Ankle).....	250.00
Breast Bone .....	250.00
Arm, below elbow, both bones.	225.00
Cheek Bone .....	225.00
Leg, below knee, both bones..	225.00
Arm, above elbow .....	200.00
Shoulder Blade .....	200.00
Colles' Fracture (Wrist).....	200.00
Leg, below knee, one bone ...	175.00
Arm, below elbow, one bone..	\$150.00
Collar Bone .....	150.00
Foot (Tarsal or Metatarsal) ..	125.00
Hand (Carpal or Metacarpal)	125.00
Jaw .....	125.00
Toes, if two or more are fractured .....	125.00
Fingers, if two or more are fractured .....	100.00
Ribs, if two or more are fractured .....	100.00
Rib .....	75.00
Finger .....	50.00
Toe .....	50.00

## DOUBLE OPTIONAL INDEMNITIES:

If such fracture is sustained while riding as a passenger in or on a place provided for the regular occupancy of passengers in a railway train or street car propelled by cable or compressed air or electricity or gasoline or naphtha or steam and provided by a common carrier for the regular transportation of passengers only,—or while a passenger on board a steam vessel licensed for the regular transportation of passengers,—or while a passenger in an elevator provided for passenger service,—or in consequence of the burning of a building while therein, *the liability for any loss specified in the schedule of fractures shall be doubled.* Double optional indemnities shall not apply to injuries, fatal or non-fatal, sustained while getting on or off or while on the step or steps of any railway train or street car.

## ADDITIONAL INDEMNITIES—SURGEON'S FEES:

If such injury shall necessitate a surgical operation specified in the schedule of surgical operations, the Company will pay the Insured—in addition to any other indemnity to which he may be entitled, the indemnity stipulated in said schedule for such operation, provided the operation occurs within 90 days of the event causing such injury, the Company not to be liable for more than one operation necessitated by such injury.

## SCHEDULE OF SURGICAL OPERATIONS:

*Additional indemnity for surgeon's fees, as follows:*

<i>For the amputation of the</i>		<i>For the reduction of the complete</i>	
Thigh .....	\$200.00	<i>fracture of the bones of the</i>	
Foot, at or above ankle ....	100.00	Pelvis .....	\$75.00
Arm, at or above elbow ....	100.00	Knee cap .....	75.00
Leg, at or above knee ....	100.00	Thigh .....	75.00
Hand, at or above wrist ....	50.00	Skull, if both tables are frac-	
Toe, one or more .....	25.00	tured .....	75.00
Finger, one or more .....	25.00	Pott's Fracture (Ankle)....	60.00
<i>For the excision of the</i>		Leg, below knee, both bones.	50.00
Knee Joint .....	\$100.00	Arm, above elbow .....	35.00
Hip Joint .....	100.00	Shoulder Blade .....	30.00
Shoulder Joint .....	100.00	Collar Bone .....	30.00
Wrist Joint .....	50.00	Jaw* .....	25.00
Elbow Joint .....	50.00	Hand (Carpal or Metacar-	
Ankle Joint .....	50.00	pal) .....	25.00
<i>For the reduction of the dislocation</i>		Arm, below elbow, both	
<i>of the</i>		bones .....	25.00
Hip .....	\$50.00	Colles' Fracture (Wrist)...	25.00
Shoulder .....	30.00	Fingers, if two or more are	
Elbow .....	25.00	fractured .....	25.00
Ankle .....	25.00	Toes, if two or more are	
Knee .....	25.00	fractured .....	25.00
Wrist .....	20.00	Foot (Tarsal or Metatarsal)	25.00
Jaw .....	15.00	Breast Bone .....	25.00
Fingers, if two or more are		Cheek Bone .....	25.00
dislocated .....	15.00	Rib, one or more .....	20.00
Finger .....	10.00	Nose .....	20.00

## HOSPITAL INDEMNITY:

If such injury shall necessitate a surgical operation and such operation is performed in an *incorporated hospital* and requires continuous confinement therein, the insured may elect to receive, in lieu of the amount stipulated for such operation in the schedule of surgical operations, \$12.50 per week during

such confinement, not to exceed 12 consecutive weeks, *in addition to any other indemnity to which he may be entitled*, provided written notice of his choice be given by the Insured to the Company at its Home Office in New York within 4 weeks of the event causing the injury, the Company not to be liable for more than one operation necessitated by such injury.

#### BENEFICIARY INDEMNITIES:

If the name of a person over 21 and under 60 years of age is stated in said Schedule of Statements as the Beneficiary hereunder, then this Policy *shall also insure*, subject to the provisions and definitions and limits herein, *such person*, as follows: Against any one of the losses specified in the beneficiary schedule, and for the amount stipulated in said schedule for such loss, provided such loss is caused by bodily injury effected exclusively and directly by external and violent and accidental means which, independently of any and all other causes, immediately and wholly and continuously disables such person, and provided such loss occurs within 90 days of the event causing such injury, and provided such injury is sustained while riding as a passenger in or on a place provided for the regular occupancy of passengers in a railway train or street car propelled by cable or compressed air or electricity or gasoline or naphtha or steam and provided by a common carrier for the regular transportation of passengers only,—*or* while a passenger on board a steam vessel licensed for the regular transportation of passengers,—*or* while a passenger in an elevator provided for passenger service,—*or* in consequence of the burning of a building while therein. Beneficiary indemnities shall not apply to injuries, fatal or non-fatal, sustained while getting on or off or while on the step or steps of any railway train or street car.

#### BENEFICIARY SCHEDULE:

*Loss, except loss of life, payable to the Beneficiary.*

Loss of Life .....	\$5,000.00	Loss of One Arm .....	\$3,000.00
Loss of Both Eyes .....	5,000.00	Loss of One Eye .....	2,500.00
Loss of Both Hands .....	5,000.00	Loss of One Hand .....	2,500.00
Loss of Both Feet .....	5,000.00	Loss of One Foot .....	2,500.00
Loss of One Hand and One		Loss of One or More Fingers	100.00
Foot .....	5,000.00	Loss of One or More Toes..	100.00
Loss of One Leg .....	3,000.00		

#### SPECIAL BENEFICIARY INDEMNITIES:

If such injury, so sustained, to the Beneficiary does not result in a loss specified in the beneficiary schedule, but shall necessitate a surgical operation within 90 days of the event causing such injury, *the Company will reimburse the Beneficiary for the amount paid the surgeon*, not to exceed \$100.00, provided the surgeon's receipt and affidavit on the Company's blank is furnished to the Company at its Home Office in New York within 4 months of the event causing the injury.

## DEFINITIONS APPLYING TO THIS POLICY:

Loss of life shall mean death occurring within 90 days of the event causing such injury. Loss of eye shall mean total and permanent blindness for life occurring within 90 days of the event causing such injury. Loss of arm or leg shall mean actual separation at or above the elbow or knee occurring within 90 days of the event causing such injury. Loss of hand or foot shall mean actual separation at or above the wrist or ankle occurring within 90 days of the event causing such injury. Loss of finger or toe shall mean actual separation at or above the proximal joint occurring within 90 days of the event causing such injury. Total loss of time shall mean that period immediately following the event causing such injury during which the Insured is thereby rendered continuously unable to transact each and every part of his business duties. Partial loss of time (waiving the word "wholly") shall mean that period immediately following the event causing such injury (or immediately following a period of total loss of time as defined herein) during which the Insured is thereby rendered continuously unable to transact one or more of his important and necessary daily business duties.

## PROVISIONS APPLYING TO THIS POLICY:

Written notice of such injury, whether fatal or non-fatal, shall be given by the Insured or the Beneficiary to the Company at its Home Office in New York within 30 days of the event causing the injury.

When claim is made, proof under oath shall be furnished to the Company at its Home Office in New York on its forms as follows: For loss of time, within 30 days after termination of such loss; of life or eye or limb or hand or foot or finger or toe, within 90 days after such loss. Forms may be had upon written request to the Company at its Home Office in New York. The Company shall not be held to have waived any rights by the delivery of such forms nor by the receipt or retention of any proof or evidence nor by the investigation of any claim.

If such injury is sustained after the Insured has changed his occupation to one classified by the Company's manual of rates as more hazardous than the occupation and duties described in said Schedule of Statements, or while doing any act or thing pertaining to a more hazardous occupation (other than ordinary duties about his residence), the amount payable for any loss specified shall be such an amount as the premium paid will purchase for such more hazardous occupation according to the Company's manual of rates. If at the time of such injury the Insured's maximum weekly indemnity insurance exceeds his weekly earnings from the occupation described in said Schedule of Statements the liability for any loss specified, except loss of life, shall be such proportion of the indemnity provided for such loss as such earnings bear to such maximum insurance.

The Company shall have the right and opportunity to examine the Insured's or the Beneficiary's person in case of injury when and so often as it requires, and also the right and opportunity to make an autopsy on the body of the Insured or the Beneficiary in case of loss of life when it so requires.

This Policy does not cover disappearance, nor war risk, nor loss resulting, wholly or partly, from disease or any means or act which if used or done by the Insured while in possession of all mental faculties would be deemed intentional or self-inflicted, nor loss resulting from an injury received while in an uncivilized or uninhabited region, nor any person whose age exceeds 66 years.

Indemnity for loss of life of the Insured is payable to .....  
 ....., herein called the Beneficiary, if surviving, otherwise to the executor or administrator of the Insured. Indemnity for loss of life of the Beneficiary is payable to the Insured, if surviving, otherwise to the executor or administrator of the Insured. Loss of the Insured's life or eye or limb or hand or foot shall immediately terminate this insurance. The Company shall not be liable for more than one of the losses specified in the beneficiary schedule; but the payment of any indemnity under the beneficiary schedule shall not terminate this Policy.

The Company may cancel this Policy by mailing notice of cancellation to the Insured's address appearing on the Company's records with its check for the unearned part, if any, of the premium. No claim arising from one injury shall be valid for more than one loss specified except in case of total and partial loss of time as herein provided, except that the amount payable under the schedule of surgical operations or for hospital indemnity as provided herein, as the case may be, shall be in addition to any other indemnity to which the Insured may be entitled. The issue of this Policy cancels any prior accident Policy issued by the Company to the Insured. Any premium due the Insured shall be returned on demand.

This policy shall be void for any of the following causes or conditions: Fraud or misrepresentation concerning this insurance or any claim hereunder; should the Insured or the Beneficiary suffer the loss of hearing or reason or sight or become crippled or arrive at the age of 66 years.

No proceeding in law or equity to enforce a claim hereunder shall be brought unless begun within one year from the date of the event causing loss of life or eye or limb or hand or foot or finger or toe, or unless begun within one year from the termination of loss of time.

No change or waiver of anything herein and no assignment of this Policy or any claim hereunder shall be valid unless written hereon and signed by the Secretary or Assistant Secretary of the Company. No renewal of this Policy shall be valid unless signed by the Secretary or Assistant Secretary of the Company. Notice to an agent or knowledge possessed by him shall not be held to effect a change or waiver of anything herein.

IN WITNESS WHEREOF the UNITED STATES CASUALTY COMPANY has caused this Policy to be signed by its President and Secretary, but it shall not be in force until countersigned by a duly authorized representative of the Company.

Countersigned:

.....

*President.*

*Secretary.*

## SCHEDULE OF STATEMENTS:

(a.) My *full* name is ..... (b.) Class No. ....

(c.) My weight is ..... pounds. (d.) My height is ..... feet,...inches.

(e.) I was ..... years of age on the ..... day of ....., 190...

(f.) I am not colored.

(g.) My } St. & No., .....  
Post Office }  
address is } City, ....., State, .....

(h.) The firm or corporation with which I am connected as a member is  
an employe is

The business }  
conducted is } .....

The business } St. & No., .....  
address is } City, ....., State, .....

(i.) My occupation is .....

(j.) My duties are only such as pertain to office duties, financial management of my affairs and business, traveling for business or pleasure, and pursuing the ordinary forms of recreation, *except as follows*:

(k.) My weekly earnings from the occupation stated above are in excess of the maximum weekly indemnity named in all the accident policies and certificates carried or applied for by me, *except as follows*:

(l.) I have no accident insurance, *except as follows*:

(m.) I have no application for accident insurance pending, *except as follows*:

(n.) I have never had any application for accident insurance declined or acceptance postponed, and no company or association or order has ever cancelled or refused to renew a policy or certificate for me, *except as follows*:

.....  
 (o.) I am in full possession of all senses and bodily members, free from any intemperate habit, local, constitutional, functional or organic disease, mental or physical disorder, defect, deformity, impairment or infirmity, and I have not consulted a physician or taken treatment during the past two years, *except as follows*:  
 .....

.....  
 (p.) I have never received or been refused compensation for any accidental injury, and I am not now making claim for any, *except as follows*:  
 .....

.....  
 (q.) I have not in contemplation any special journey or undertaking, *except as follows*:  
 .....

.....  
 (r.) I have not had any accidental injury during the past 7 years, *except as follows*:  
 .....

INJURY	DATE	DURATION
.....	.....	.....
.....	.....	.....
.....	.....	.....

(s.) I desire the death indemnity paid to

..... } herein called the Beneficiary,  
                   GIVE FULL NAME        } (if surviving, otherwise to my  
   } executor or administrator);

(t.) Whose relationship to me is .....

(u.) Whose Post Office address is .....

(v.) Whose age on last birthday was ..... years; (w.) Whose weight is ..... pounds; (x.) Whose height is ..... feet ..... inches; and

(y.) Who is mentally and physically sound.



## POLICY OF EMPLOYER'S LIABILITY INSURANCE.

In consideration of the payment of the estimated premium and of the statements contained in the Schedule hereinafter set forth, which statements the Assured makes on the acceptance of this policy and warrants to be true, the NEW AMSTERDAM CASUALTY COMPANY, herein called the Company, does hereby agree to indemnify the Assured designated in the said Schedule *against loss from the liability imposed by law upon the Assured* for damage on account of bodily injuries or death accidentally suffered while this policy is in force, by any employee or employees of the Assured, while within the factory, shop or yard described in the Schedule, or upon the sidewalk or other ways immediately adjacent thereto provided for the use of such employees or the public, in and during the operation of the trade or business described in the Schedule, including, however, drivers and drivers' helpers mentioned in the Schedule when on duty in the vicinity of the locations designated in the Schedule, subject to the following conditions:

*Condition A.*—This policy does not cover loss from liability from injuries or death suffered by or caused by—(1) Any person whose compensation is not included in the estimate set forth in the said Schedule unless caused by the Assured himself if an individual, or if a firm, by any member thereof, or if a corporation, by its President, Vice-President, Secretary or Treasurer, provided such officer is not managing or superintending at the works; or unless suffered by or caused by drivers of teams for which the Assured carries concurrent teams insurance in this Company: (2) Any child employed by the Assured contrary to law or any child employed under fourteen (14) years of age where no statute restricts the age of employment: (3) Any convict: (4) Any person in connection with the making of additions to or alterations in or the construction of any building or structure or plant or in connection with the wrecking or demolition of any building or structure or plant or any part thereof. Ordinary repairs when made by employees of the Assured whose compensation is included in the estimate set forth in the Schedule are permitted.

*Condition B.*—Upon the occurrence of an accident the Assured shall give immediate written notice thereof with the fullest information obtainable at the time, to the Home Office of the Company in New York City or to its duly authorized agent. If a claim is made on account of such accident the Assured shall give like notice thereof with full particulars. The Assured shall at all times render to the Company all co-operation and assistance in his power.

*Condition C.*—If thereafter any suit is brought against the Assured to enforce a claim for damages by reason of an accident covered by this policy, and arising from a liability covered hereby, the Assured shall immediately forward to the Home Office of the Company every summons or other process as soon as the same shall have been served on him, and the Company will,

at its own cost, defend such suit in the name and on behalf of the Assured. The Company shall, however, have the right at any time to discharge its total liability hereunder by reason of any one accident by settling all suits and claims against the Assured arising from the said accident and covered by this policy, or by payment to the Assured of an amount equal to the liability provided for such an accident in Condition O hereof, but all sums theretofore paid by the Company either to the Assured or in settlement of any suit or claim against the Assured, by reason of the said accident, shall be accounted in diminution of the liability of the Company provided for said accident in said Condition O.

*Condition D.*—The Assured shall not voluntarily assume any liability, nor shall the Assured, without the written consent of the Company previously given, incur any expense or settle any claim, except at his own cost, or interfere in any negotiations for settlement or in any legal proceeding; except that the Assured may provide at the time of the accident such immediate surgical relief as is imperative. Whenever requested by the Company, the Assured shall aid in securing information and evidence and the attendance of witnesses and in effecting settlements and in prosecuting appeals.

*Condition E.*—No action shall lie against the Company to recover for any loss covered by this policy unless it shall be brought by the Assured for loss actually sustained and paid in money by the Assured in satisfaction of a final judgment after trial of the issue; nor unless such action is brought within ninety (90) days after such final judgment against the Assured has been so paid and satisfied. The Company does not prejudice by this Condition any defenses to such action it may be entitled to make under this policy.

*Condition F.*—In case of payment of loss under this policy the Company shall be subrogated to all rights of the Assured against any person or corporation as respects such loss, and the Assured shall execute all papers required and shall co-operate with the Company to secure to the Company such rights.

*Condition G.*—If the Assured carry a policy of another insurer, whether valid or not, against a loss covered by this policy, the Assured shall not be entitled to recover from the Company a larger proportion of the entire loss than the amount hereby insured bears to the total amount of his insurance.

*Condition H.*—If the business of the Assured is placed in the hands of a receiver, assignee or trustee, whether by the voluntary act of the Assured or otherwise, the Company shall not be liable for any accident which may occur thereafter unless the insurance hereunder is transferred to such receiver, assignee or trustee by an endorsement hereon signed by its President, Vice-President or Secretary. If the Assured is a corporation, a change of title, or if a firm or individual, a change of title or of ownership shall in like manner terminate this policy, unless such change is consented to by the Company, by an endorsement hereon, signed by its President, Vice-President or Secretary. The pro rata part of the premium unearned computed as provided herein will be returned to the Assured on demand.

*Condition I.*—The premium is based on the entire compensation whether

for salaries, wages, piecework, overtime or allowances earned by the employees of the Assured during the period of this policy; whenever employees are compensated, in whole or in part, by store certificates, board, merchandise, credits, or any other substitute for cash, the amount of compensation covered by such substitutes, shall be included in the entire compensation on which the premium is based. If such entire compensation exceeds the sum set forth in the Schedule, the Assured shall immediately pay the Company the additional premium earned; if such compensation is less than the sum set forth in the Schedule, the Company will return the unearned premium, when determined; but the Company shall retain not less than the sum named in Condition Q hereof, it being agreed that this sum shall be the minimum earned premium.

*Condition J.*—This policy may be cancelled by the Company at any time by written notice to the Assured at his Address given herein, stating when the cancellation shall be effective. It may be cancelled by the Assured by like notice to the Company. If cancelled by the Company, the Company shall be entitled to the earned premium, pro rata, when determined. If cancelled by the Assured, the Company shall be entitled to the earned premium calculated by the customary short rate table. In either case the earned premium shall be computed on the compensation for the year as indicated by the actual compensation earned by the employees of the Assured during the time the policy shall have been in force. In any case the minimum earned premium stated in Condition Q shall be retained by the Company. The check of the Company mailed to the address of the Assured as given herein shall be a sufficient tender, but no return premium shall be payable until a statement of the actual compensation earned by the employees of the Assured during the period the policy was in force shall have been furnished to the Company by the Assured.

*Condition K.*—Any of the authorized inspectors of the Company shall have the right and opportunity whenever the Company so desire to inspect the plant, works, machinery and appliances of the Assured; and the Company or any of its inspectors may suspend this insurance because of any defect or dangerous condition found in the same. Notice of such suspension and the reason therefor and of the reinstatement of the insurance must be in writing. The pro rata part of the premium for the period of such suspension computed as provided herein will be returned to the Assured on demand.

*Condition L.*—Any of the authorized auditors of the Company shall have the right and opportunity, whenever the Company so desires, to examine such books, records and works of the Assured as the Company may deem necessary to ascertain the compensation earned by the employees of the Assured, and the Assured shall render reasonable assistance; but the Company waives no right by failing to make such examination. The Assured shall, whenever the Company so requests, furnish the Company with a written statement of the amount of compensation earned by his employees during any part of the period of this policy, and at the end of the period of the policy the Assured shall furnish the Company with such statement covering

the full period of the policy. The rendering of any estimate or statement or any settlement shall not bar the examination herein provided for nor the right of the Company to additional premiums.

*Condition M.*—No condition or provision of this policy shall be waived or altered by anyone unless by endorsement hereon signed by an officer of the Company at the Home Office, nor shall notice to any agent, nor shall knowledge possessed by any agent or by any other person be held to effect a waiver or change in this contract or in any part of it.

*Condition N.*—No person shall be deemed an agent of the Company unless such person is authorized in writing as such agent by the President, the Vice-President or the Secretary of the Company.

*Condition O.*—The liability of the Company for loss from an accident resulting in bodily injuries to or in the death of one person only is limited to ..... Dollars (\$.....) and, subject to the same limit for each person, the total liability of the Company for loss from any one accident resulting in bodily injuries to or in the death of more than one person is limited to ..... Dollars (\$.....).

*Condition P.*—The period of time during which this policy shall be in force is ..... months beginning on the ..... day of ....., 190.. noon, and ending on the ..... day of ....., 190.. noon, standard time, at the place where this policy has been countersigned.

*Condition Q.*—The minimum premium for this policy is ..... Dollars (\$.....).

#### SCHEDULE.

*Statement 1.* Name of Assured .....

*Statement 2.* Addressed of Assured .....

(State street and town and county and State where *head office* is located.)

*Statement 3.* The Assured is .....

(State whether individual or co-partnership or corporation or receiver or other trustee.)

*Statement 4.* The places where the factories and shops and yards are located, the kind of trade or business carried on at each such location, and the estimated number of employees and the estimated compensation of employees at each such location are as stated below:

Trade or Business.	Estimated Average Number of Employees.	Estimated Compensation for Period of Policy.	Premium Rate per \$100 of Compensation	Estimated Amount of Premium.	Location of Each Factory and Shop and Yard.
		\$	\$	\$	
.....					
.....					
.....					

The estimated compensation covers the wages and salaries of all persons by whom compensation is earned in the business or trade carried on by the Assured at the locations mentioned and described in this Schedule, including regular time and overtime, and all allowances, whether paid in cash or merchandise or store certificates or credit or board, or in any other way, including the compensation of whatever kind earned by piece-workers, also the wages or other compensation earned by drivers when there is no concurrent Teams Insurance, and including the salaries or other compensation of the President and Vice-President and Secretary and Treasurer and Clerks and Office Employees, except as follows:.....

*Statement 5.* There are no hand-fed presses for stamping of sheet or other metal at any of the locations mentioned above, whether in use or not, except as follows: ..... Number of presses ..... Kind of stamping done .....

*Statement 6.* The operations carried on are those usual to the trade or business described herein.

*Statement 7.* There are no steam power boilers on the premises, except as follows: .....

*Statement 8.* There are no passenger or freight or other elevators on the premises, except as follows: .....

*Statement 9.* No power is used, except as follows: .....

*Statement 10.* No chemicals are used, except as follows: .....

*Statement 11.* No explosives are used, except as follows:.....

*Statement 12.* The following insurances are now carried and valid insurance in not less than the same amounts will be carried while this policy is in force:

Employer's Liability	\$.....	Name of Co.,.....
Public Liability	\$.....	Name of Co.,.....
Workmen's Collective	\$.....	Name of Co.,.....
Boiler,	\$.....	Name of Co.,.....
Elevator,	\$.....	Name of Co.,.....
Teams,	\$.....	Name of Co.,.....

*Statement 13.* No Company has cancelled or refused to issue Liability, Elevator or Boiler insurance to the Assured during the past three years, except as follows:.....

*Statement 14.* No company has insured this risk during the past two years, except as follows: .....

*Statement 15.* The entire compensation earned by all employees during the year ended December 31st last was not more than the total amount given in Statement No. 4 as the estimated compensation for the period of this Policy, except as follows: .....

IN WITNESS WHEREOF the NEW AMSTERDAM CASUALTY COMPANY has caused this Policy to be executed at the City of New York, but the same shall not be binding upon the Company until countersigned by a duly authorized representative of the Company.

Countersigned by

.....  
.....

President.  
Secretary.



## SPECIMEN OF FIDELITY BOND GUARANTEEING HONESTY OF EMPLOYEES

1 This Bond, Made this ..... day of .....  
 2 in the year of our Lord One Thousand.....WITNESSETH:  
 3 WHEREAS, .....  
 4 .....  
 5 .....  
 6 (hereinafter called the Employer) has appointed sundry and various Employés to positions in the  
 7 service of the Employer, a list of whom has been furnished by the Employer to the NATIONAL  
 8 SURETY COMPANY, a corporation under the laws of the State of New York (hereinafter called the  
 9 Company,) and whose names, positions, locations and acceptance numbers appear in the Schedule hereto  
 10 attached which is hereby referred to and made a part of this bond; and,  
 11 WHEREAS, The Employer may hereafter appoint other Employés to positions in the Employer's  
 12 service, and,  
 13 WHEREAS, The Employer desires security against loss which the Employer may sustain by or  
 14 amounting to larceny or embezzlement  
 15 through the personal dishonesty A of the Employés in the performance of their duties in their respective  
 16 positions and has applied to the NATIONAL SURETY COMPANY, a corporation under the laws of  
 17 the State of New York (hereinafter called the Company,) for such indemnity;  
 18 Now, THEREFORE, For and in consideration of a premium computed at an agreed rate, and in  
 19 further consideration of the statements made by the Employer to the Company, and of the convenants  
 20 on the part of the Employer, hereinafter contained, the Company hereby undertakes and agrees to and  
 21 with the Employer that it will, subject to the provisions and conditions herein contained, which shall be  
 22 conditions precedent to the right of the Employer to recover hereunder, at the expiration of three  
 23 months next after proof satisfactory to the Company of any loss for which the Company may be liable  
 hereunder shall have been furnished the Company at its principal offices in the City of New York, make

24 good and reimburse to the Employer such pecuniary loss of money, securities, or other personal property  
 25 belonging to the Employer, or in the Employer's possession and for which the employer is legally liable,  
 amounting to larceny or embezzlement

26 as may be sustained by the Employer by reason of the personal dishonesty A of the Employé in con-  
 27 nection with the duties pertaining to the office or position to which the Employé has been appointed,  
 28 and occurring at any time after the ..... day of ..... A. D. .... as to  
 29 the Employés named in the schedule; and as to any new Employé, at any time after his acceptance by  
 30 the Company, as hereinafter provided, and prior to the ..... day of .....  
 31 A. D. ...., as to all Employés, which said loss shall be discovered during such term, or within six  
 32 months thereafter and within six months after such Employé's death, dismissal or retirement from the  
 33 Employer's service and within six months after the determination of this obligation or the specific  
 34 guarantee hereunder in behalf of the Employé causing such loss.

35 PROVIDED HOWEVER, the Company's liability on account of any Employé shall in no case  
 36 exceed the amount for which the Company shall have become surety hereunder for such Employé,  
 37 which amount is set opposite his name in the schedule, or shall be specifically stated in the Acceptance  
 38 hereinafter provided for.

39 This Bond is executed by the Company upon the following express conditions:

40 FIRST: The Company shall not be liable hereunder for any sum whatever, which any Employé  
 41 may at the commencement of the term hereinbefore provided for, owe the Employer.

42 SECOND: If any Employé resign or be discharged from the service of the Employer, the  
 43 Company shall not be liable to the Employer for any loss sustained by or through any act of such  
 44 Employé thereafter committed.

45 THIRD: If the Employer appoint any new Employé to a position in the service of the Employer,  
 46 and give the Company immediate written notice, upon a blank furnished by the Company for such  
 47 purpose, of the name, position, location and date of appointment of such Employé, and the amount for  
 48 which the Employer may desire the Company to become surety for such Employé (which notice shall  
 49 be accompanied by such Employé's application, upon the usual blank provided by the Company,) the  
 50 Company if it elect to become surety for such Employé, shall execute and deliver to the Employer its  
 51 written Acceptance specifying the amount for, and the date from which the Company shall be liable



52 as surety for such Employé; it being agreed and understood that such Acceptance shall and is to be  
53 subject to all the conditions and provisions herein contained.

54 FOURTH: If at any time the Employer desires to increase or decrease the amount for which the  
55 Company shall have become surety for any Employé, or to transfer any Employé from one position to  
56 another, the Employer shall so notify the Company in writing, and if the Company consent to such  
57 change it shall execute and deliver to the Employer its written Acceptance specifying the desired  
58 change, giving date when effective, and such Acceptance shall and is to be subject to all the conditions  
59 and provisions herein contained.

60 FIFTH: The Company, upon becoming surety in a stipulated amount under the terms of this Bond  
61 in behalf of any Employé, shall not thereafter be liable to the Employer under any previous guarantee  
62 in behalf of such Employé, whether under this or any prior Bond, it being mutually understood that it  
63 is the intention of this provision that but one (the current) guarantee in behalf of any Employé shall be  
64 in force at one time: *Provided However*, That the Employer shall have the right, within six months  
65 after the termination of any previous guarantee in behalf of any Employé (whether such guarantee be  
66 under a prior Bond, the original execution of this Bond, or by subsequent Notice and Acceptance as  
67 herein provided,) to make claim for, and proof of, any loss occurring thereunder. But it is expressly  
68 understood and agreed that if any claim be so made under any previous guarantee in behalf of any  
69 Employé during the said period of six months, and if loss also occur under the current risk or guarantee  
70 in behalf of such Employé, the aggregate liability of the Company for all losses under all guarantees  
71 under all Bonds in behalf of such Employé shall not exceed a sum equal to the amount of the largest of  
72 the respective guarantees under which such losses occurred, nor shall the Company be liable under any  
73 specific guarantee for any loss occurring under any other guarantee.

74 SIXTH: If at any time after the beginning of the term for which this Bond is written, the Em-  
75 ployer suspect, or if there come to the notice or knowledge of the Employer, any act, fact or inform-  
76 ation tending to indicate that any Employé is or may be unreliable, deceitful, dishonest or unworthy of  
77 confidence, or is intemperate, gambles, or indulges in other vices, the Employer shall immediately so  
78 notify the Company in writing at its principal offices in the City of New York, and if the Employer fail  
79 or neglect so to do, the Company shall not be liable for any act of such Employé thereafter committed;  
80 and if at any time after the beginning of the term for which this Bond is written there come to the

81 notice or knowledge of the Employer the fact that any Employé is unreliable, deceitful, dishonest or  
 82 unworthy of confidence, or is intemperate, gambles or indulges in other vices, the Company shall not  
 83 be liable for any act of such Employé thereafter committed.

84 SEVENTH: Upon the discovery by the Employer that a loss has been sustained, or of facts indicat-  
 85 ing that a loss has probably been sustained, the Employer shall immediately so notify the Company in  
 86 writing, at its principal offices in the City of New York, and shall within the time limited in lines 28 to  
 87 34 inclusive of this Bond, make and furnish to the Company, in writing, at its principal offices in the  
 88 City of New York, claim for, and proof of loss, if any, sustained, and failure to give such immediate  
 89 notice, or to make such claim or such proof within such time shall relieve the Company from all liability  
 90 hereunder on account of the Employé causing such loss.

91 EIGHTH: It is agreed that the Employer has made, or caused to be made, by a duly authorized  
 92 representative, to the Company, certain statements in writing of and concerning each of the Employés  
 93 named in the schedule, their respective duties, accounts, financial condition, character, habits, and other  
 94 matters, and shall make or cause to be made, by a duly authorized representative, like statements as  
 95 to all new Employés, all of which are agreed to be material to the risk and to have influenced the  
 96 Company to execute the Bond, and subsequent acceptances hereunder; and if the Employer be a  
 97 Corporation, Lodge or other Association, that said statements were known to, and duly authorized by  
 98 the Board of Directors or Trustees of the Employer; and each, every and all of the matters and things  
 99 so stated to the Company, at, or at any time, prior to the execution hereof, or any acceptance hereunder,  
 100 are warranted by the Employer to be true; and if any such statements be false or untrue in any  
 101 particular; or if such statements be not known to, and fully authorized by, the Board of Directors or  
 102 Trustee of the Employer, as above stated; or if the Employer shall, at any time when inquired of by the  
 103 Company make any false statement or suppress any fact regarding any Employé, his duties, accounts,  
 104 financial condition, character, habits or other matters inquired about; or if the Employer at the time  
 105 of making claim for, or proof of, any loss alleged to have been sustained shall make any misstatement  
 106 or suppress any fact affecting the rights, or material to be considered in determining the liability of the  
 107 Company under this Bond; then this Bond shall be absolutely null and void, and the Company shall not  
 108 be liable for any loss sustained by the Employer.

109 NINTH: The Employer shall, whenever requested by the Company, give all information within its  
 110 knowledge, or which can be obtained from its books or records, and render all assistance (not pecuniary)

111 which will in any way aid in the apprehension, arrest or prosecution of any Employé for any criminal offense  
 112 committed by such Employé involving liability of the Company, and in like manner aid and assist the Com-  
 113 pany in suing for and obtaining reimbursement by such Employé, or by the Employé's estate for any moneys  
 114 which the Company may have paid or become liable to pay under this Bond on account of such Employé.

115 TENTH: The term "Employer" as used in the Sixth, Seventh, Eighth and Ninth conditions of  
 116 this Bond, shall be taken and held to mean any officer, manager, superintendent, auditor, or other re-  
 117 presentative of the Employer, having authority, or whose duty it may be, to direct or supervise the  
 118 work, or to examine the books or audit the accounts of others in the Employer's service, or to count or  
 119 examine the cash or securities for which such others are or may be, respectively, responsible.

120 ELEVENTH: The Company shall not be liable for any loss occasioned by accident, mistake, negli-  
 121 gence, error of judgment on the part of, or breach of contract by an Employé, nor the failure of any  
 122 bank or other institution where funds may have been deposited, nor from any other cause save the per-  
 123 sonal dishonesty of the Employé, amounting to larceny or embezzlement.

124 TWELFTH: If the Employer, at the time of sustaining any loss, hold any other security from or in  
 125 behalf of the Employé causing such loss, and the amount of such loss be less than the aggregate amount  
 126 of such other security and the amount for which the Company shall have become surety hereunder for  
 127 such Employé, the Company shall be liable for only such proportion of the loss as the amount, for  
 128 which the Company shall have become surety hereunder, bears to the total security held by the Em-  
 129 ployer, whether such other security be available or not.

130 THIRTEENTH: The Company may at any time terminate the obligation which it shall have  
 131 assumed in behalf of any and every Employé under this Bond, by giving the Employer written notice of  
 132 its election so to do, and such termination shall take effect at the expiration of fifteen days from the re-  
 133 ceipt of such notice by the Employer, and the Company shall not be liable for any act of any such Em-  
 134 ployé thereafter committed. If the Company subsequently pay any loss hereunder, on account of any  
 135 such Employé, the whole premium paid as to such Employé shall be held to have been fully earned and  
 136 to belong to the Company; otherwise, the Company shall, upon demand and the execution and delivery  
 137 to the Company by the Employer of a full release of the Company from all liability hereunder on  
 138 account of such Employé, refund the premium paid as to such Employé, less a *pro rata* part thereof for  
 139 the time this obligation as to such Employé shall have been in force.

140 FOURTEENTH: No action, suit or proceeding at law or in equity shall be had or maintained upon  
 141 this Bond unless the same be commenced within one year from the time of making claim for the loss  
 142 upon which such action, suit or proceeding is based.

143 FIFTEENTH: When any Employé for whom the Company is surety hereunder in any position is  
 144 acting jointly for the Employer and any other person, company or corporation, joint audits of his books  
 145 and accounts shall be made by the Employer and such other person, company or corporation.

146 SIXTEENTH: None of the conditions or provisions contained in this Bond shall be deemed to have  
 147 been waived by or on behalf of the Company unless the waiver be clearly expressed in writing over the  
 148 signature of its President, Vice-President, and its seal be thereto affixed, duly attested.

149 SEVENTEENTH: The receipt and retention hereof or the making claim for any loss under this  
 150 Bond by the Employer shall be taken and held as a covenant upon the part of the Employer consenting  
 151 and agreeing to all the terms, provisions and conditions herein contained, and that the Employer will  
 152 make frequent audits and examinations, and at all times during the term hereof take and use all reason-  
 153 able steps and precautions to detect and prevent any act upon the part of any Employé which would  
 154 tend to render the Company liable for any loss.

155 EIGHTEENTH: The premium due the Company for becoming surety for the Employés named in  
 156 the schedule must be paid within thirty days after the delivery hereof, and if not so paid this Bond  
 157 shall be void from the beginning, and the Company shall not be liable for any loss sustained.

158 IN WITNESS WHEREOF, The Company has caused this Bond to be signed by its ..... President  
 159 and its corporate seal to be hereto affixed, duly attested by its ..... Secretary, the day and date first  
 160 herein mentioned.

161 .....  
 162 ..... *President.*

163 ATTEST:  
 164 .....  
 165 ..... *Secretary.*

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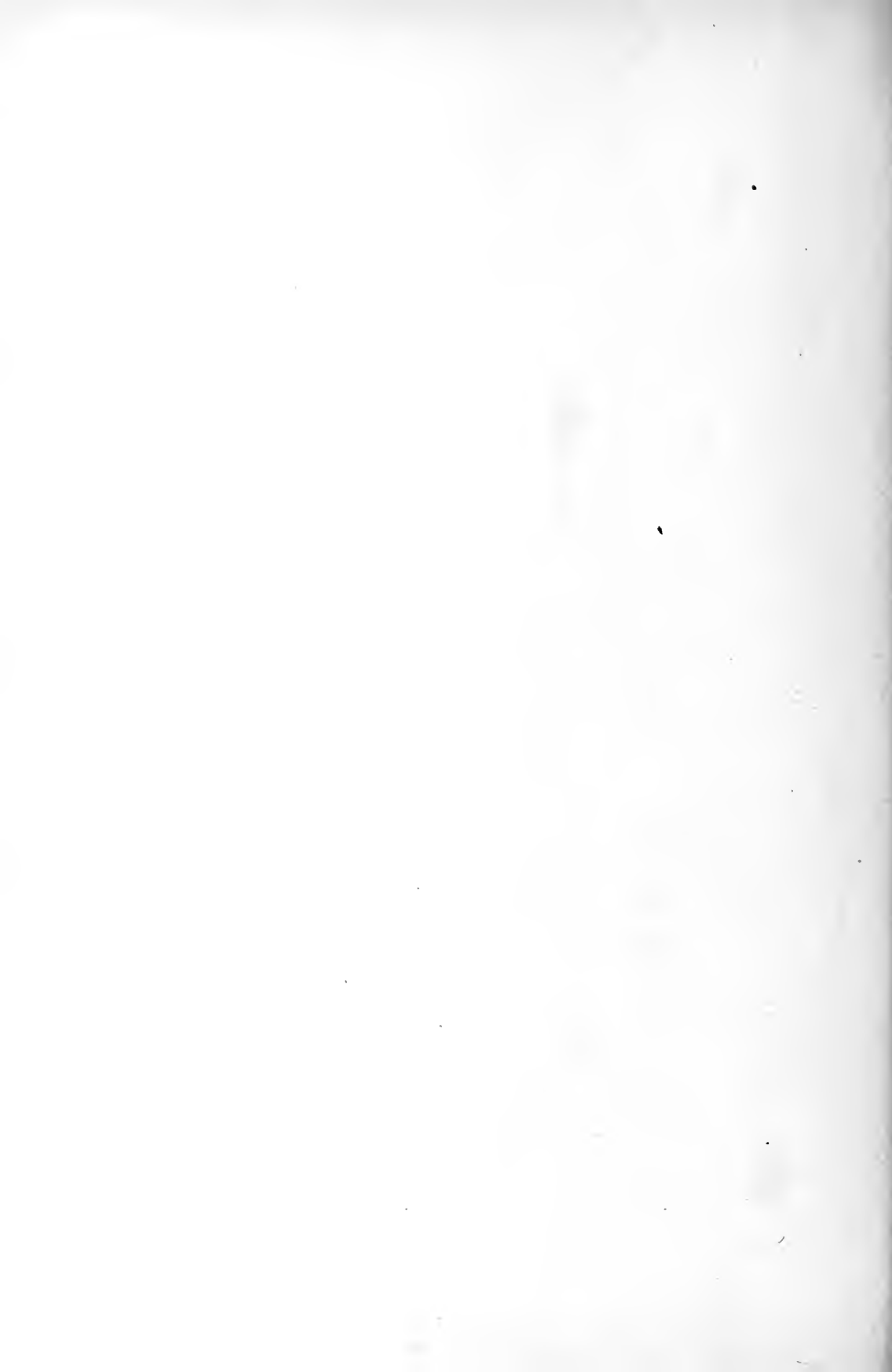
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- Warranties, and representations in fire insurance, 191, 199; in marine insurance, 294-297

## Book Department





## BOOK DEPARTMENT

### NOTES.

**Acworth, W. M.** *The Elements of Railway Economics.* Pp. 159. Oxford: Clarendon Press, 1905.

**Adler, Elkan Nathan.** *Jews in Many Lands.* Pp. 259. Price, \$1.25. Philadelphia: Jewish Publication Society of America.

Both Jews and Gentiles will find much that is interesting in this little book of rambling sketches of Jewish peoples from Egypt, Palestine, Persia, Russia and elsewhere. The author has made extensive travels and tells his story well, though omitting many details which would give greater value to his account.

**American Political Science Association, Proceedings of.** Meeting held at Chicago, December 28-30, 1904. Pp. 249.  
Reserved for later notice.

**Ashley, Percy.** *Modern Tariff History.* Pp. xxiii, 367. Price, \$3.00. New York: E. P. Dutton & Co., 1904.  
See "Book Reviews."

**Bernheimer, Charles S. (Ed.).** *The Russian Jew in the United States.* Philadelphia: J. C. Winston Co., 1905.  
See "Book Reviews."

**Bourdeau, J.** *Socialistes et Sociologues (Bibliothèque de Philosophie Contemporaine).* Pp. 196. Price, 2.50 fr. Paris: Félix Alcan, 1905.

**Bourgin, Hubert.** *Fourier (Contribution à L'étude du Socialisme Français).* Pp. 617. Price, 12 fr. Paris: George Bellais, 1905.

Space forbids more than a reference to this important monograph upon one of the most prominent French theorists. Few men have led more interesting lives or had more interesting ideas. Careful accounts of both have been lacking and students will be under obligation to the author of this volume.

**Brassey, Lord, and Chapman, S. J.** *Work and Wages. Part I, Foreign Competition.* Pp. xxxv, 301. Price, \$3.00. New York: Longmans, Green & Co., 1904.  
See "Book Reviews."

**Channing, Edward.** *A History of the United States, Vol. I.* Pp. xi, 550. Price, \$2.50. New York: The Macmillan Company, 1905.  
See "Book Reviews."

**Chapman, S. J.** *The Lancashire Cotton Industry.* Pp. viii, 309. Price, 7s. 6d. London: Sherratt & Hughes, 1904.  
See "Book Reviews."

**Chicago.** *Civil Service Commission, Tenth Annual Report.* Pp. 470.

**Cleveland, F. A.** *The Bank and the Treasury.* Pp. xiv, 326. Price, \$1.80. New York: Longmans, Green & Co., 1905.

See "Book Reviews."

**Coghlan, T. A.** *A Statistical Account of Australia and New Zealand, 1903-04.* Pp. 1042.

**Colajanni, N.** *Latins et Anglo-Saxons.* Pp. xx, 432. Price, 9 fr. Paris: Félix Alcan, 1905.

This is an excellent translation by Mr. J. Dubois of the second Italian edition of Professor Colajanni's book. The author is studying the question of superior and inferior races. He discusses the questions of anatomical differences, but finds no evidences of any proof of the superiority of one type over another. Greece, Rome, Venice, England, America, Modern Italy are passed in review and everywhere both progress and decadence are found—nowhere proof of an inherent race superiority. The opinions of Demolin and others are thus squarely refuted. Even now Italy is being born anew and new Italy is larger and stronger than the earlier states. So the tendency is for even larger unions between people closely related, such as France and Italy, for the sake of world peace and progress. The thesis is interesting and the book deserves a reading.

**Cutler, James E.** *Lynch Law.* Pp. ix, 287. Price, \$1.50. New York: Longmans, Green & Co., 1905.

See "Book Reviews."

**Davenport, F. M.** *Primitive Traits in Religious Revivals.* Pp. xii, 323. Price, \$1.50. New York: The Macmillan Company, 1905.

Reserved for later notice.

**Deutsch, Leo.** *Sixteen Years in Siberia.* Pp. xxiv, 376. Price, \$2.00. New York: E. P. Dutton & Co., 1905.

The events of the last two years lend added interest and significance to this fascinating story of exile life. First published in English, in October, 1903, two reprints of the original edition have been made while this cheaper edition has been twice in press. In addition, versions in the leading European languages have likewise been issued. The ways of bureaucracy, the helplessness of the individual and yet the vast power of a people inspired by new ideals are graphically set forth. The author gives a picture of the new Russia, not merely an exposé of the old. The volume deserves a wide reading. The translator, Helen Chisholm, comments upon the significance of recent events in her preface.

**Dinwiddie, Emily W.** *Housing Conditions in Philadelphia.* Pp. 42. Octavia Hill Association, Philadelphia, 1904.

**Dodge, Richard E.** *Advanced Geography.* Two parts. Pp. 333, xix. Price, \$1.20. Chicago: Rand, McNally & Co., 1905.

Reserved for later notice.

**Dyer, Henry.** *Dai Nippon.* Pp. xvi, 450. Price, \$3.50. New York: Charles Scribner's Sons, 1905.

Reserved for later notice.

**Eliot, Sir Charles.** *The East Africa Protectorate.* Illustrations and Maps. Pp. xii, 334. Price, \$5.00. New York: Longmans, Green & Co. London: Edward Arnold, 1905.

The author, formerly British commissioner to East Africa, returns, declaring that there are large areas there suited to white settlers and white civilization. Although this colony lies under the equator, the elevation of the interior region between Lake Victoria and the Indian Ocean, gives it a temperate climate, and the tribal wars and the late ravages of the slave trader have left the best of it bare of inhabitants, awaiting settlers. "An experience of some fifteen years has shown that these regions are not only healthy for adult Europeans, but that European children can be reared and thrive in them."

The book gives a great deal of minute and not always interesting geographic information, but it was written by neither a geographer nor an economist, and often produces a sense of vagueness by omitting factors essential to an understanding of the country in its relation to human welfare. Other parts of the book are interesting, and the sociologist might find some useful information in the accounts of the native races.

**Ely, Richard T.** *The Labor Movement in America.* New Edition. Pp. xvi, 399. Price, \$1.25. New York: The Macmillan Company, 1905.

This is a reprint of the author's well-known work first issued in 1886, which for some reason the publishers have seen fit to call a "new edition, revised and enlarged." A genuine revision with the addition of the history of the last twenty years is greatly to be desired.

**Fairlie, John A.** *The National Administration of the United States of America.* Pp. x, 274. Price, \$2.50. New York: The Macmillan Company, 1905.

The administrative side of the Federal Government has never been described with the fullness and care which have been lavished upon our constitutional questions. Dr. Fairlie's treatise on this subject is marked by all the scholarly treatment, painstaking accuracy and thoroughness which characterized his work on municipal administration. One cannot read this book without realizing that the executive machinery of government has reached such a development as to place it on a par with the legislature. We may also understand why the President has recently found it necessary to appoint a commission of high officials to propose means for reducing unnecessary red tape in the various departments. The author describes fully each department and the various detached offices and commissions, showing the method of organization and the work which is done by each. He has marshaled this immense mass of descriptive detail in systematic array, yet with such care as to literary effects that the book is interesting throughout. Teachers of government should find the work of great value as a text.

**Ferri, Enrico.** *La Sociologie Criminelle.* Pp. 640. Price, 10 fr. Paris: Félix Alcan, 1905.

Professor Ferri's work needs no introduction to American students, for it is justly considered one of the most important books on criminology. It is

a pleasure to note that the fourth Italian edition has just been translated into French by Léon Ferrier, thus rendering it a bit more accessible to English students. In his introduction written for this French edition, Professor Ferri notes with pleasure the changes as regards the treatment of the criminal in the last twenty years particularly as regards preventive methods.

**Gide, Charles.** *Economie Sociale, Les Institutions du Progrès Sociale au début du XX Siècle.* Pp. 465. Price, 5 fr. Paris: L. Larose, 1905.

Comparatively few have seen the report upon social economy prepared for the Paris Exposition. Professor Gide has done a genuine service by getting out this little volume which deserves a wide circle of readers, for it epitomises the great report just mentioned. After sketching the social work of the nineteenth century, the relation of capital and labor; the questions of food and shelter are treated. Chapter three is devoted to security, including insurance of all sorts, savings and relief, while the last chapter deals with the abolition of wages and the preservation of small industries and holdings. The style is interesting and the matter important.

**Gumpłowicz, Ludwig.** *Grundriss des Sociologie.* Second Edition. Pp. xvi, 384. Price, K. 9.60. Manzschke K. u K. Hof-Verlags: Vienna, 1905.

As one of the first German works on sociology the first edition of this volume attracted great attention. A translation, "The Outlines of Sociology," was published by the American Academy of Political and Social Science in 1899. The original edition has become scarce, so the second is issued. There are no important changes in the text, save in the earlier sections, when the history of the development of sociology in the last twenty years is traced. The author naturally laughs at his earlier critics who said such a thing as sociology could not exist, when he shows how it has won recognition in Germany and elsewhere. Here and there minor changes, references to new books, etc., are introduced, all deviations from the original text being indicated. The author finds no reason to modify his earlier conclusions. The new edition will be welcomed by all who desire a copy of the German text.

**Hepner, Adolf.** *America's Aid to Germany in 1870-71.* Pp. 463. Price, \$1.50.

Published by the author, St. Louis, 1905.

The material for this volume is drawn from the official correspondence of Mr. E. B. Washburn, United States Ambassador to Paris, and is presented with a German translation. The author seeks to show the important services rendered by Mr. Washburn to Germans in France during the Franco-German war.

**Hill, David J.** *A History of Diplomacy in the International Development of Europe.* Vol. I. Pp. xxiii, 481. Price, \$5.00. New York: Longmans, Green & Co., 1905.

Reserved for later notice.

**Ireland, Alleyne.** *The Far Eastern Tropics.* Pp. 339. Price, \$2.00. Boston: Houghton, Mifflin & Co., 1905.

Reserved for later notice.

**Jebb, Richard.** *Studies in Colonial Nationalism.* Pp. xv, 336. Price, \$3.50. New York: Longmans, Green & Co., 1905.  
See "Book Reviews."

**Jernigan, T. R.** *China in Law and Commerce.* Pp. 408. Price, \$2.50. New York: The Macmillan Company, 1905.  
Reserved for later notice.

**Judson, F. N.** *The Law of Interstate Commerce and Its Federal Regulation.* Pp. xix, 509. Price, \$5.00. Chicago: T. H. Flood & Co., 1905.  
Reserved for later notice.

**Labour Department.** *Tenth Abstract of Labour Statistics of the United Kingdom, 1902-1904.* Pp. xvi, 259. Price, 1s. 2d. London: Darling & Son, 1905.

**Landon, Perceval.** *The Opening of Tibet.* Pp. xvi, 484. Price, \$3.80. New York: Doubleday, Page & Co., 1905.

Lhasa has at last been visited, with the aid of the bayonet, and the story told. This volume is the account of the Younghusband Mission, by its authorized correspondent, the representative of the *London Times*. The book bids fair to become a standard work for several reasons. The expedition represents the opportunity of the ages for the entrance of this forbidden land and this narrative of it is authorized by the chief of the mission. The book is ponderous in size, wide in its scope and interesting reading. It combines the account of a romantic expedition with a description of one of the oddest of lands and its people. Including the numerous appendices, the range of information extends from the frogs and fishes of the country to the folklore, art, religion and amazing priestcraft of the people. It is, however, an unfortunate lack that such a record of travel, accompanied as it is with descriptions of districts and scenery, should have no map whatever. It is further marred by the lack of any index.

**Lavisse.** *Histoire de France, Tome Sixième, II, Henri IV et Louis XIII* (1598-1643). Pp. 492. Paris: Hachette et cie., 1905.

The second half of Volume VI of Lavisse's "Histoire de France," as well as the first, is by Mariéjol. It opens with an account of the misery and disorders in 1598, and then gives an excellent description of the manner in which, during the short reign of Henry IV, the country was made prosperous and the finances rehabilitated. The real interest of the volume, however, is in the masterly portrayal of Richelieu's work. Every phase of his activity is treated with the exact knowledge and marvelous grasp which mark Mariéjol's work. It is a fascinating account, and the interest is greatly enhanced by the concise, but scholarly, sections on agriculture, manufacturing, commerce, colonization, education, literature and art.

Twelve parts, six volumes, of this work have now been published. There are to be four more parts, of which three will be devoted to the reign of Louis XIV, and the last will carry the history to the eve of the Revolution. The work thus far has fully justified the enthusiasm with which the first volume was received.

**Levasseur, E.** *Elements of Political Economy*. Translated by Theodore Marburg. Pp. x, 306. Price, \$1.75. New York: The Macmillan Company, 1905.

The choice of books in economics begins to be embarrassing. The present volume has certain definite merits. It is short, succinct, interesting. It contains nothing controversial—indeed, there is little to indicate that anyone questions any of the conclusions reached. It is written by an experienced and successful teacher and is free from crude errors. Anyone wishing a general view of economics will find the volume of value. It may well be used to supplement other books. It will not, however, be adequate for general college use unless an enormous mass of illustrative detail is to be supplied by pupil or teacher. The translator's work is well done.

**London, Jack.** *War of the Classes*. Pp. xviii, 278. Price, \$1.50. New York: The Macmillan Company, 1905.

This volume consists of a series of disconnected essays written in the strong and virile fashion of Mr. London. The author tells how he became a socialist, and prophesies that the great class war, which always has been and now is, will be won by the working men—and thenceforth there will be no struggle (?). Chapters are devoted to the tramp and the scab, as well as to capitalistic production. It is an interesting, thought-provoking volume, to be read and pondered, but truths and half truths are so interwoven that it is scarcely a safe guide.

**Lord, Eliot; Trenor, J. J. D., and Barrows, S. J.** *The Italian in America*. Pp. ix, 268. New York: B. F. Buck & Co., 1905.  
See "Book Reviews."

**Macedo, Pablo.** *La Evolución Mercantil Comunicaciones y Obras Públicas la Hacienda Pública*. Pp. 622. Mexico: J. Ballezá y Ca., 1905.

Reserved for later notice.

**McLain, J. S.** *Alaska and the Klondike*. Pp. xiv, 330. Price, \$2.00. New York: McClure, Phillips & Co., 1905.

The custom of the ancient cartographers to draw the pictures of wonderful savage beasts on the maps of unknown parts of the world was followed in the last century by the writing of the word "desert," and we have all grown up inheriting the idea that many parts of the world that happen to be remote, are useless to civilized man.

Explorers are returning from all continents and trying to explode that time-honored myth for their particular region until the name of "desert" must be used with great care if your statement is to stand the test of science applied to industry.

Mr. McLain has written a good book as a result of accompanying the Senatorial Investigating Committee on its Alaskan tour in 1903. His book is conservatively written, is interesting and seems to be believable. He tells us of a country nearly as large as the United States east of the Mississippi, with the white population of a good Middle Atlantic county, and producing several millions of dollars annually in gold, fish and fur, and, with one or two insignificant exceptions, without the aid of wagon roads or railroads. Mr.

McLain is sure that the future of gold mining is great and permanent, copper probably the same, and much promise of other mineral wealth. Despite our preconceived notions, parts of Alaska are put down as stock-raising country and other parts for farms—not as agricultural exporters, but as supply for the local market in the mining districts. There are valuable forests, and the hundreds of thousands of square miles of frozen Arctic tundra of the north seem about to enter commerce as the home of herds of reindeer resulting from successful introductions of these animals from the Asiatic shores across the Behring Sea, where they are the chief dependence of prosperous tribes.

The political conditions are well described, and the comparison with the Canadian territory of the Yukon, comprising the Klondike, is not gratifying to American pride. The British subject has good roads and clear and orderly mining laws—the two essential contributions of government to industry in such a country. The American side has chaos in land titles, and chaos in transport, where each man must do for himself. During the period of American sovereignty, Alaska, like a Spanish colony, has been a source of revenue to the mother country. The chapter on the condition of the native, his sufferings and what the government has not done for him, is sad reading.

**Mississippi Historical Society, Publications of.** Edited by Franklin L. Riley. Vol. VIII. Pp. 606. Price, \$2.00. Oxford, Miss., 1905.

Students of southern history are greatly indebted to the Mississippi Historical Society for its series of excellent studies. This volume contains twenty-seven contributions, covering a wide range of subjects, among which the war and reconstruction are prominent, though notice is taken of recent economic developments.

**Oppenheim, L.** *International Law—A Treatise.* Vol. I, "Peace." Pp. xxxvi, 610. Price, \$6.50. New York: Longmans, Green & Co., 1905.  
See "Book Reviews."

**Primary Reform.** *Publications of the Michigan Political Science Association.* Vol. VI, No. 1, March, 1905. Pp. 149. Price, \$1.00.

The publication of the papers on Primary Reform, read before the Michigan Political Science Association last February, is of especial interest to those who follow the drift of politics. Among the contributors are Roger W. Butterfield, Professor John A. Fairlie, Professor A. H. Tuttle, Dr. Charles E. Merriam and Floyd R. Meacham. The various papers go to show that primary elections have proven practicable for county and municipal nominations. The consensus of opinion is that they will be equally as useful in removing nominations from machine control when applied to the state at large as in the smaller divisions. But there is a danger in this, that to be thoroughly effective, the primary will need to be hedged in by so many rules that the ordinary citizen will find the nominating machinery too cumbersome for his convenience, and then the whole system will fall of its own weight.

The contribution of Floyd R. Meacham, "Constitutional Limitations on Primary Election Legislation," without a doubt stands pre-eminent in this collection of papers. All are of sufficient merit to attract not a little attention

**Reed, William Allan.** *Negritos of Zambales.* Ethnological Survey Publications. Vol. II, Part I. Pp. 90. Manila: Bureau of Public Printing, 1904. This is an excellent sketch of the negroid people of the province of Zambales, island of Luzon. The author was among them too short a time to do much more than learn their mode of life and general characteristics. The volume is heavily illustrated.

**Reinsch, P. S.** *Colonial Autonomy.* Reprinted from Proceedings of American Political Science Association. Pp. 28.

**Riley, Thomas James.** *The Higher Life of Chicago.* Pp. 136. Price, 75 cents. Chicago: The University of Chicago Press, 1905.

In this attractive study of the cultural agencies of a great city Dr. Riley has performed a service for residents of all cities. We hear so often of the bad in city life that we forget the good. By summarizing these efforts for social betterment, the author stimulates us all to hope, not to despair. The thesis is grouped about three main heads: The Educational Interests, The Moral and Social Interests, The Aesthetic and Religious Interests. To many who think of Chicago as a great commercial center merely, this account of the higher life will be a revelation.

**Ringwalt, Ralph Curtis.** *Briefs on Public Questions.* Pp. xii, 229. Price, \$1.20. New York: Longmans, Green & Co., 1905.

The author has gotten out a book rather unique in its make-up. He has taken twenty-five of the leading questions of the day, such as Negro Suffrage, Popular Election of Senators, Postal Telegraph, Government by Injunction. A proposition with regard to each is stated and, after a general introduction, the leading affirmative and negative arguments are suggested with references to more extended discussions. No attempt is made to prove a point nor is new material introduced. For instance, as regards the Chinese, the proposition is thus stated: "The policy of the United States with respect to Chinese immigration should be continued," and the arguments pro and con are cited.

The author groups the subjects under three heads: Politics, eleven topics; Economics, seven topics; Sociology, seven topics. This division is purely arbitrary and is of no value. Chinese Immigration is put under Politics and the Government Ownership of Railways under Sociology.

The volume will be of service to all preparing debates or wishing suggestions upon the topics discussed.

**Ross, E. A.** *Foundations of Sociology.* Pp. xiv, 410. Price, \$1.25. New York: The Macmillan Company, 1905.  
Reserved for later notice.

**Rowe, Chilton.** *Is it so Impracticable? Or, A Trust for all People.* Pp. 37. Chicago: Bernard & Miller, 1905.

**Salter, William.** *Iowa: The First Free State in the Louisiana Purchase.* Pp. 289. Price, \$1.20. Chicago: A. C. McClurg & Co., 1905.

The writer has for some sixty years been a resident of Iowa and has borne an honorable part in its development. In this volume the history is traced from 1673 until 1846, when Iowa became a state. It will be of great service



to all who need to know exact dates and events in the state's history. The work is painstaking and careful, but its scope is limited. It is but a chronicle of events, largely political. There is no description of soil, climate, fauna or flora, save incidentally. Though some attention is paid to the Indians, the account is unsatisfactory and scarcely true to life. The author seems to have a very low opinion of Indians in general and Iowa Indians in particular. We wish that accounts could have been given of early settlers and early social developments.

**Sanborn, Alvin Francis.** *Paris and the Social Revolution.* Pp. xix, 404. Price, \$3.50. Boston: Small, Maynard & Co., 1905.

This brilliant and fascinating study of the revolutionary elements in the various classes of Parisian society is appropriately dedicated to the proletariat of America. The author has done a rare thing. He has portrayed the radicals of society as men and women moved by all human emotions and not as human caricatures. One feels the active, pulsating life of those who are consciously at odds with orthodox society. So attractive is the description that the author is compelled in self-defence to announce in his preface that he is neither revolutionist nor reactionary, but an ordinary man well content with the existing order. The same sympathy marks the drawings of Vaughn Trowbridge which really illustrate the text. The publishers have done their part by furnishing good paper and type, but the cover is a bit too sensational and lurid.

Mr. Sanborn at first introduces us to the anarchist and sets forth the ideas of Reches, Jean Grave and others, quoting at length from Grave. He shows how anarchy is propagated and makes many suggestive comments upon the effect of certain political events in France. There are personal sketches of noted anarchists *par le fait*. Then the author discusses the socialists, passing on to a consideration of the Latin quarter and its Bohemians, to Montmartre with its literary and artistic cabarets. The literature of revolutionary thought is analyzed and the spirit of revolution is traced in music and art. The volume is commended to all who would catch a glimpse of those by-products of social evolution who are often ridiculed and condemned but seldom explained.

**Schmoller, Gustav.** *Jahrbuch für Gesetzgebung, Verwaltung und Volkswirtschaft.* 29 Year. Vol. II. Pp. iv, 406. Leipzig: Duncker und Humblot, 1905.

**Schüller, Richard.** *Schutzzoll und Freihandel die Voraussetzungen und Grenzen Ihrer Berechtigung.* Pp. 304. Leipzig: G. Freytag.

This book deals with such subjects as variation in the cost of production, the economic effects of free trade, the adjustment of import duties, the protectionist situation in our own times, the treatment and influence of exports, commercial treaties, etc.; nine chapters in all.

The chapter on *agrarstaat und industriestaat* touches upon matters at issue between the radical and the moderate protectionists. This he considers under three heads: first, the agrarstaaten in which the whole population derives its support chiefly from agriculture; second, agrarindustriestaaten, in which

trade and industry hold an approximate equality with agriculture, and third, the industriestaaten in which by far the greater portion of production falls to industrial pursuits. He gives as illustrations of the second, Austria-Hungary, Italy and the United States; of the third the type is England, with Germany and France following closely. From the bearing of this treatise upon topics germane to the situation in America one could wish to see it put into English for popular perusal.

**Sellers, Edith.** *The Danish Poor Relief System.* Pp. viii, 131. Price, 2s. net. London: P. S. King & Son, 1904.

The author says the Danish system is "an example for England," and she might well have added for America. Every American who has to do with the administration of poor relief should read this little volume. Denmark has done at least two things which show us the way out of some of our troubles. First, by classifying her institutions and having penal poor farms, it has practically abolished professional mendicancy, and second, by classification again it is able to separate the aged poor from the aged paupers. We would do well to profit by her example. The old age pension system is described in full, but this has less immediate interest for us. It is to be hoped that this clear and stimulating monograph will be widely read.

**Shambaugh, B. F.** *Messages and Proclamations of the Governors of Iowa.* Vol. VII. Pp. x, 480. Iowa City: State Historical Society.

**Sinclair, W. A.** *The Aftermath of Slavery.* Pp. xiii, 358. Price, \$1.50. Boston: Small, Maynard & Co., 1905.

Reserved for later notice.

**Stang, William.** *Socialism and Christianity.* Pp. 207. Price, \$1.00. New York: Benziger Bros., 1905.

The author, the Rt. Rev. William Stang, D. D., has three objects in this book: (1) To show American people the folly of socialistic doctrines; (2) to make every man feel contented with his station in life; (3) to hold to the Catholic faith those who are unwilling to forego all the pleasures of this life in order to enjoy a blissful hereafter and to bring back to the faith those who have become socialists. That there is unrest among the laboring classes, the author freely admits, but he asserts that such a condition is not the result of inequality.

In fact, the greater part of this unrest is placed at the door of higher education. The author goes out of his way to attack our present system of public schools, which he deems little less than harmful because religious training is not a part of the required work.

A healthy and happy condition of society is said to be impossible where two elements are lacking: (1) stability of work; (2) moral conviction that we shall enjoy a blissful eternity.

Religious zeal is most commendable, but Mr. Stang has allowed himself to be carried away from his subject by too great fervor. Too many quotations from scriptural writings detract greatly from the real value of the book, but it possesses enough merit to cause it to find its way into Protestant as well as Catholic libraries.

**Strong, Josiah (Ed).** *Social Progress*. Pp. 349. Price, \$1.00. New York: Baker and Taylor Company, 1905.

This Year Book of economic, industrial, social and religious statistics, first issued in 1904, is extremely valuable in that it renders immediately accessible a vast amount of valuable information upon social topics. If the sale of the volume corresponds to the need for such a book the publishers should be able to effect several improvements. The typographical mistakes are exasperatingly numerous, and the eleven mentioned in the errata slip are but a small proportion of the whole. The topics in the different chapters are indiscriminately thrown together—an alphabetical order would be a decided help. There are some careless statements; for example, on page 147, where it is stated that 10,137,000 negroes were imported between 1500 and 1800. There are likewise curious omissions. It is impossible to find the address of the School for Social Workers, nor is the director's name included in the list of social workers. No reference is made to the excellent work of the Association for Household Research. Better editing and better proof reading are needed. As it is, however, no student and no library should be without it.

**Thaw, A. B.** *An Inaugural Ode*. Pp. 20. Nelson, N. H.: Monadnock Press, 1905.

**University Publications.** Among recent monographs issued under university auspices are the following:

*Columbia.* Studies in History, Economics and Public Law. Vol. XIX, No. 3. Vol. XXIII, Nos. 2 and 3.

Groat, George Gorham. Trade Unions and the Law in New York. Pp. 134. Price, \$1.00. This study deals with the efforts to secure legislation favorable to labor and with the lawfulness of trade union activities.

McKeag, Edwin C. Mistake in Contract. Pp. 132. Price, \$1.00. A study of the "unecht" class of mistakes in which real consent is lacking, resulting in nullity of contract.

Mussey, Henry Raymond. Combination in the Mining Industry. Pp. 167 with charts. Price, \$1.00. The author's recent election as successor of Professor Keasbey at Bryn Mawr lends added interest to this study of concentration in Lake Superior iron ore production.

*Illinois.* University Studies, Vol. I, Nos. 9 and 10. Urbana.

Dickerson, O. M. The Illinois Constitutional Convention of 1862. Pp. 558. Price, 50 cents.

Herron, Belva Mary. Labor Organization Among Women. Pp. 79. Price, \$1.00.

*Johns Hopkins.* University Studies, Series XXIII, Nos. 3-4, 5-6, 7-8. Baltimore.

Bond, Beverley W., Jr. State Government in Maryland, 1777-1781. Pp. 118.

Chitwood, Oliver Perry. Justice in Colonial Virginia. Pp. 121.

Kaye, Percy Lewis. English Colonial Administration Under Lord Clarendon, 1660-1667. Pp. 150.

## REVIEWS.

Ashley, Percy. *Modern Tariff History*. Pp. xxiii, 367. Price, \$3.00. New York: E. P. Dutton & Co., 1904.

Any history which has its inception in an object that makes it secondary as history to a main purpose, is apt to arouse the reader's distrust, both as to the temper and the content of the work. The main purpose in the present instance seems to be the enlightenment of the British public upon the probable experience before it, as inferred from the experience of France, the United States and Germany,—in case Great Britain should abandon her present tariff policy. Whether or not the prospect is alluring, the reader may judge for himself, for the historian is discreetly conservative in the drawing of conclusions. Judging, however, from the prefatory note by Mr. R. B. Haldane, the lesson of history lays heavy emphasis upon the conservative policy.

The tariff history of France and of Germany certainly needed to be written for the English and American reader, and the author is to be commended for having put before us the main facts in concise form. That of Germany is particularly illuminating, and though the author does not claim to rely so much on his own researches as upon those of others, he has done much in stating very clearly the conflicting interests and the grounds taken by the defenders thereof.

With regard to the tariff history of the United States, the works of Taussig, Brentano and Stanwood, not to mention the host of magazine writers with whom Mr. Ashley shows his familiarity, have covered the field somewhat fully if not exhaustively, and the only added merit in this connection is to be found in the recentness of the work, and the fact that it is from a viewpoint outside of ourselves.

Mr. Ashley's style is remarkable for a certain freshness and vitality which makes his book easy reading in spite of the abstruseness of the subject. Taking it altogether the book is well worth while.

J. E. CONNER.

*Washington, D. C.*

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Bernheimer, Charles S. (Ed.). *The Russian Jew in the United States*. Philadelphia: The John C. Winston Company, 1905.

Recognizing the power for harm in the selfish prejudgment of the later emigrants to this country, Dr. Bernheimer, in 1900, planned a broad study of one of the largest and perhaps the most unique and distinct of the constituents of the great influx. The purpose is to truly portray the social, religious, industrial and political life of the three large Russian-Jewish communities in the United States.

The editor has adopted the unusual plan of a mosaic book—for each of his twenty-eight collaborators has done a distinct part of the work independently of the thought of the others. As we observe the mosaic we first see in partial cross-section the different race elements, then a fleeting yet clear insight to those mystic closes of the congregations of these co-religionists who have come successively to our land. We are given the prospect of a

complete amalgamation of these radically differing races—the flux being the common heritage through generations of generations of their unchanging spiritual ideal. The fruit is to be a people “not Sephardic, not German, not Russian, not even American, but simply and solely Jewish.”

The article on the Jew in Russia which should tell sufficient of his history and character there to temper our judgment as to the probable development here and to adjust our perspective of the present situation deals too narrowly with the history. Far more full and real is the panel drawn by Mr. Cohan of the people as they are domiciled in the United States. The nation is here symbolized by New York City.

The matter of fact statements of the economic situation of the masses impressed the reviewer as showing it to be low—destructively low it would be for any people less frugal, patient in adversity, and controlled and moderate in temperament.

The religious activity is apparently disorganized and the institution in a chaotic state. Small hope is extended for immediate improvement and a grave need is shown for deliberate and concerted revival work. Thankfully it may be said that the short-comings and mistakes are not glossed over, but pointed to, criticised and condemned. Bright and fair to read is that which tells of education, but most dramatic and interesting to the lay reader are the engraved gems set in the centre with their fascinating and significant legend of the amusements and social life. The growing, though not yet popularly recognized, apprehension of the power of pleasures as inducements to work and ladders to higher social planes finds here its expression, and it is with a keen appreciation of the importance of their analysis that Mrs. Simon N. (Charlotte Kimball) Patten has written.

The manner of presentation of the papers is not uniformly happy and for the whole we wish for a specific statement of dates. Their absence leads to doubt as to the present applicability and the correlation of certain of the statistics. In spite of this, however, Dr. Bernheimer has undoubtedly done a service in bringing out this book. Considering its structure, he is to be congratulated on having it so free of injudicious statements and as complete as it is in the important matter on this serious subject of the assimilation of so alien a people.

WALTER E. KRUESI.

*New York.*

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**Brassey, Lord, and Chapman, Sydney J.** *Work and Wages.* A study of the effects of foreign competition upon the trade of Great Britain. Pp. xxxv, 301. Price, \$3.00. London and New York: Longmans, Green & Co., 1904.

Five years ago the British press was filled with dolorous and deprecatory articles, portraying in vivid language the havoc which was being wrought by the “American Commercial Invasion,” and making gloomy prophecies as to the future of British and continental manufacturers and merchants. Time has demonstrated how inaccurate these forecasts were. The “invasion” ceased almost as suddenly as it began with the resumption of industrial activity in

the United States. The British merchant suddenly found that conditions were again almost identical with those which had prevailed before the appearance of the disturbing phenomena. As time went on, his courage returned and he once again began to feel fully capable of taking care of himself in the struggle for trade in the world's markets.

Professor Chapman's book, which we are informed is a continuation of Lord Brassey's "Work and Wages" and "Foreign Work and English Wages," which appeared over a quarter of a century ago, voices in no uncertain manner this present-day belief of the British commercial classes. The author lays down for his premise the rule, that since few writers can claim expert knowledge of any industry, their part is to collate and compare collective results. The book is, therefore, of necessity largely composed of excerpts from public documents, reports of special investigating committees, and opinions of technical experts.

After carefully reviewing the coal trade and proving to his satisfaction that the English miner is superior in efficiency to those in the United States, the author turns to the iron and steel industries. The conclusion is reached that the Americans are supreme because of their great natural advantages, it being extremely doubtful "whether the operatives at the American works are really more efficient than those performing the same tasks in England." The next topic considered is the relative advantages of each country, from the standpoint of the shipbuilder. The author, after comparing the English with the American, German and French yards, coincides with the conclusions already arrived at by our own shipbuilders, that England owes her success to the cheapness of raw materials, and to the ability to standardize types, because of the large amount of tonnage of the same class turned out.

The author next examines in turn, the relative advantages which the great commercial nations possess in manufacturing locomotives, textiles, chemicals and electrical machinery. The concluding chapters of the book are devoted to a comparison of the British and American railways.

The book throughout shows evidence of careful preparation and exhaustive investigation. There is scarcely an important commercial organization in England whose opinion upon some point has not been either quoted or referred to. The author, however, has failed to pursue the same course when endeavoring to portray conditions in Germany or America,—too much dependence being placed upon the observations of British experts who have spent a few weeks in these countries. As a result, Professor Chapman fails to take into consideration many of the factors which have been of great importance in causing the cessation of American activity in foreign markets. Throughout the book, moreover, there is unmistakable evidence of a disposition to give the British the benefit of every doubt.

The author is to be congratulated upon the use which he has made of the British technical journals and reports of trade organization. At the present time there is an unfortunate disposition to rely upon magazine articles and general publications instead of basing conclusions upon real facts secured from the business world. Professor Chapman has done a great service in pointing the way to the proper method of studying commercial conditions.

The portion of the book dealing with railways must be especially commended. The author here displays greater familiarity with American conditions than in any other part of the work, and, as a result, his conclusions are comparatively free from bias. Professor Chapman presents, more clearly than has ever been done before, the conditions which have brought about the wide divergence of railway standards in the two countries.

THOMAS CONWAY, JR.

University of Pennsylvania.

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Chancellor, William Estabrook, and Hewes, Fletcher W. *The United States: A History of Three Centuries, 1607-1904*. Vol. I. Pp. xxiii, 533. Price, \$3.75. New York: G. P. Putnam's Sons, 1904.

This is one of the more pretentious works on American history now claiming the attention of a certain class of readers. According to the publishers' announcement, "It is the purpose of the history to present, in a comprehensive and carefully proportioned narrative, an account of the beginnings of the national existence and of the successive stages in the evolution of our distinctive national qualities and institutions. The record covers the events from 1607 to the close of 1904." The first "part" (volume) brings the narrative down to the close of the seventeenth century. After such an announcement the reader would expect the opening chapter to deal with the founding of Jamestown, but he is surprised to find ninety-five pages devoted to discovery, the rivalry of the nations, and the Indians. Nine more "parts" are to follow.

At the outset the authors challenge the reader's attention with the novel "Historical Perspective," which he is invited to survey. "Part" one is itself divided into four parts—Population and Politics, War, Industry, and Civilization. The lines of cleavage cannot be sharply drawn. There is overlapping, and events closely related are almost totally dissociated in the mind of the reader, or he is burdened with two accounts of the same thing. The causes of Bacon's Rebellion are set forth in one place with a brief account of the result; in another more details of the fighting are given. In the first we are told that Bacon died of dysentery; in the second, "of disease, probably; of poison, some said." To be sure that the reader is impressed with the "Historical Perspective," it is given in the form of a double page diagram. Here "Civilization" divides "Politics" from "Industry" and "War," though most people probably would suppose that it was intimately wound up with all of them, especially the first two. The American school boy can tell of the New England Confederation, but here he will find no mention of it, either in the text or in the "Perspective."

It is hard to treat such a work with the seriousness it deserves. It would hardly be correct to say that it makes no contribution to historical literature; in parts three and four, "Industry" and "Civilization," a good many interesting facts have been brought together, but it would be difficult to say who will profit by them. Even the general reader who indulges in a ten volume work on American history probably would feel more secure in his reading, if the statements were backed up with something more than a curious collocation

of primary and secondary authorities, along with others of no authority whatever, put in the back of the book, with very few specific references.

DAVID Y. THOMAS.

*University of Florida.*

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**Channing, Edward.** *A History of the United States.* Vol. I, 1000-1660. Pp. xi, 550. Price \$2.50. New York: The Macmillan Company, 1905.

The students of American history have long looked forward to the appearance of Professor Channing's *magnum opus*. The first volume well rewards their interest, for in scholarship the work easily leads any other attempt of the kind. The style is clear, pleasing and admirably simple. If it lacks the literary flavor of some of the more popular histories, there is the compensating charm of deep knowledge and plain-spoken truth.

Professor Channing's preface tells faithfully what he has done,—not what he intended to do, but failed. After reading the volume one can find no better language to describe its method and purpose than the author's own. "The guiding idea," he says, "is to view the subject as the record of an evolution." He has "tried to see in the annals of the past the story of living forces, always struggling onward and upward toward that which is better and higher in human conception." He does not relate merely the annals of the past, but describes "the development of the American people," treating the growth of the nation "from the political, military, institutional, industrial and social points of view." Instead of tracing the story of each isolated political unit from the point of view of the antiquarian, Professor Channing has "considered the colonies as a part of the English empire, as having sprung from that political fabric, and as having simply pursued a course of institutional evolution unlike that of the branch of the English race which remained behind."

Although, on the whole, the transmission of European civilization to America is very faithfully portrayed, we are not convinced that the author's method of treatment is correct, when he begins the history with the discoveries by the Northmen. It seems to us that the reader's mind should not be first fixed upon America, which is only the dwelling place to which Europeans are destined to come. Rather, the European conditions should be first sketched, which made the discovery of America a logical event, and the state of European civilization which was soon to be modified in America. This is all done, later, in Professor Channing's book, but as a matter of effective literary form we believe in the suggested method. Another slight blemish is the rather unsympathetic treatment of the early Spanish explorers (pp. 71, 98). After Mr. Bourne's very sympathetic treatment in his "Spain in America," this treatment, moderate as it is when compared with the traditional accounts—grates a little upon us. Perhaps it is only because we expect from Mr. Channing such perfect fairness and such catholic judgment. There are a number of instances in which he differs from the recognized authorities, but his own reasons are so cogent that one rather admires his daring than questions his good judgment.



While Mr. Channing has not attempted an "exhaustive exploitation of bibliography," he has given at the close of each chapter an analysis and criticism of the leading sources and important secondary works. This feature of the work, like the history itself, is the work of a master. Nothing more valuable exists for the use of the advanced student of American history. The only adequate estimate of this work is to state frankly that it stands in the forefront of scholarly efforts to tell the history of this country.

C. H. VAN TYNE.

*University of Michigan.*

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**Chapman, Sydney J.** *The Lancashire Cotton Industry: A Study in Economic Development.* Pp. viii, 309. Price, 7s. 6d. London: Sherratt & Hughes, 1904.

"This essay," says the author in the preface, "is intended chiefly as a description and an explanation of the typical forms that have appeared from time to time in the production of commodities, the marketing of commodities and the distribution of income, in the Lancashire cotton industry." It also is what its title claims for it—A Study in Economic Development. Although it is not intended to be a history of the cotton industry, its method is distinctly historical. It shows how a simple household industry grew into a great, complicated, modern industry. It shows how successive inventions in machinery caused new forms of organization in production and marketing of commodities and consequently modern forms of trade associations of employers and of employees.

Fully the last third of the book is taken up by a study of "Trades Unions," "Employers Associations" and "Methods of Paying Wages." No simple answer to the problems presented is attempted; but they are considered in the light of a full discussion of the "Modern Organization of the Industry and the Development of the System of Marketing." "The so-called labor problem," says the author, "is complex, like the conditions of industrial life which give rise to it, and its variations are at least as numerous as the types of organized industry. Its solution is complex, varied and progressive."

The twenty-five page bibliography appended to the book shows the comprehensive character of this study. Throughout the work nearly every page contains numerous references in the form of foot-notes.

W. D. RENNINGER.

*Philadelphia.*

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**Cleveland, Frederick A.** *The Bank and the Treasury.* Pp. xiv, 326. Price, \$1.80. New York: Longmans, Green & Co., 1905.

The intention of this book, as the author states prefatorily, is not to serve as a general treatise on money and banking, but "to contribute something to a single subject of national interest—the problem of providing a more sound and elastic system of current credit funds." There is no disputing the fact

that it is a contribution, and indeed a very worthy one, even if it does not contain the final word upon the subject.

The fundamental propositions are thus summed up: "Our financial superstructure rests on two distinct and widely separated pillars—the independent treasury and the commercial bank. The one is an institution of public money issue, the other an institution of private credit; the one supports a large issue of credit money upon a 'gold reserve' for its foundation, the other a still larger issue of bank credit upon a lawful money reserve."

The two great desiderata are soundness and elasticity. The first of these is maintained chiefly by the United States sub-treasury system we have so laboriously constructed. The abolition of this sub-treasury system the author views with unnecessary alarm. At least, one may be pardoned for thinking so, if we may have as a substitute a national bank with commercial functions, as have England, France and Germany. Upon this point it would seem that the author might profitably have added a chapter, in spite of the fact that it would be going further back than the main purpose of the book calls for.

Taking things as they are Dr. Cleveland suggests some methods of increasing the soundness and elasticity of the currency. The latter of these is undoubtedly further from realization than the former and in two successive chapters we have presented, first, the possible methods of securing greater elasticity without a change in the present law. As this involves co-operation by the thousands of banks of the national system, such an event is hardly to be looked for. Hence we must look to the second, or the "possibilities of increasing elasticity by simple modifications of the present law."

Six suggestions are offered: First, "an amendment to the 'money reserve' section of the bank act," which would "require increased capitalization" and at the same time repeal the clauses pertaining to "reserve deposits;"

Second, "an amendment requiring a minimum proportion of redemption equipment to maximum of credit obligations outstanding;"

Third, "an amendment of the bank act to enjoin the payment of interest on 'issues' to banks;"

Fourth, "an amendment to encourage investment of surplus capital in 'gilt-edge' securities;"

Fifth, "an amendment to require payment of interest on government 'deposit' loans to banks;"

Sixth, "an amendment restating the capital support necessary to credit accounts."

One can but wish that the author, keen analyst that he is, had considered the possibility of supplementing our banking system with something similar to the Raifeisen banks as a means of securing further elasticity. As to the ground covered, however, those who are interested in such problems cannot do better than to consult this volume; indeed, they cannot afford not to do it.

J. E. CONNER.

*Washington, D. C.*

**Coal Supplies.** *Royal Commission's Report on the Coal Supplies of Great Britain.*

Not since Professor Stanley Jevons' book on the coal resources of Great Britain appeared in 1871, has there been so searching an inquiry into the status of the United Kingdom's fuel resources as that just reported by the Royal Commission on Coal Supplies. This commission was appointed in December, 1901, having spent over three years in the preparation of its report.

In arriving at a basis of estimating the available supplies of coal, the depth of 4,000 feet was taken as the limit of practicable working. At this depth no insuperable difficulties, either mechanical or engineering, were deemed likely to arise. Workings at Pendleton at a temperature of  $92\frac{1}{2}$  degrees were as comfortable as formerly at 82. On the continent 4,900 feet are regarded by experts as the working limit.

The available quantity of coal in proved fields of the United Kingdom is estimated to be 100,914,668,167 tons, or 10,700,000,000 tons in excess of the estimate of the commission of 1871, on whose figures Jevons based his rather startling conclusions.

In view of this estimate, and the anticipation that the present rate of increase in the output will be checked by natural causes, it seemed to the commission that there is no present necessity to restrict artificially the export of coal in order to conserve it for our home supply. This is the commission's answer to the cry that England was selling out this basic factor of her competitive effectiveness.

Various economies in working and consumption are suggested, and, although the commission is unable to point to any real substitute, other possible sources of power are mentioned which may slightly relieve the demand for coal. These include water power and fuel oil. Irregularity in oil supply makes it necessary for the navy especially to continue to rely on coal.

Going on to deal with waste in working, the commission assumes that improved methods and appliances may result in the getting of a greater percentage of coal than that which it has estimated to be available. Among these are included better methods of cutting and assorting. The machine methods of cutting coal, so widely used in the United States, are commended as more economical.

The commission states that the probable duration of British coal resources turns chiefly upon the maintenance or variation of annual output, which is at present about 230,000,000 tons.

For the past thirty years the average increase in the output has been  $2\frac{1}{2}$  per cent. per annum, and that of the exports (including bunkers)  $4\frac{1}{2}$  per cent. It is the general opinion of the district commissioners that, owing to physical considerations, it is highly improbable that the present rate of increase of the output of coal can long continue; and, in view of this opinion and of the exhaustion of the shallower collieries, the commission looks forward to a time, not far distant, when the rate of increase of output will be slower, to be followed by a period of stationary output, and then a gradual decline.

Economy in domestic consumption is mainly to be expected from the adoption of central heating in houses, the open fire being merely used as

supplementary to the general warming of hot-water pipes or stoves; and it is said that on a safe estimate more than half of the present consumption of about 32,000,000 tons per year could thus be saved.

The competitive power of Great Britain, it is held, has been affected by two factors: (1) The steady increase of the cost of working, and (2) the imposition of the export duty early in 1901. Nevertheless, Great Britain has lost little ground as a coal-trading nation, except in countries where a local supply has been developed and in markets which more naturally are commercially tributary to Germany and to the United States. On the whole the report is rather reassuring to the traditional British faith in the free operation of economic laws.

JOHN FRANKLIN CROWELL.

*Washington, D. C.*

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**Cutler, James E.** *Lynch Law*. Pp. ix, 287. Price, \$1.50. New York: Longmans, Green & Co., 1905.

Dr. Cutler has put all students of social conditions in the United States under deep obligation by his careful and comprehensive study. The book opens with a general survey and an attempt to trace the origin of the term "lynch," which is found to be of Virginia extraction, originally used of extra legal whippings. The author then distinguishes between the frontier justice where regular courts are not established and what is to-day generally called lynching in otherwise law-governed communities. The question is then extended chronologically and the presence of such events shown from early time. The arguments in justification are cited and the attempts to overcome it by laws punishing lynchers are reviewed. Many accounts of actual occurrences are given. The author believes that the explanation lies in the attitude of the American people towards the law, that we have not yet developed to the point where law *as law* is respected as in Europe. Hence lynching is tolerated because in considerable measure as a sort of common law. Our situation is further complicated by the race differences. It will not cease till public sentiment really condemns it. The author is hopeful about the future. The few lynchings in the past nine months would seem to indicate a rising tide of opposition. Tables showing number of lynchings are given and detailed analyses made. The volume will repay careful study, even if exception is occasionally taken to some of the author's conclusions. The volume represents a great amount of research work and the author is to be congratulated upon the manner in which the material is presented.

CARL KELSEY.

*University of Pennsylvania.*

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**Fish, Carl Russell.** *The Civil Service and Patronage*. Vol. XI. Harvard Historical Studies. Pp. xi, 280. Price, \$2.00. New York: Longmans, Green & Co., 1905.

This book is distinctively a history of the patronage, and as such deserves recognition as a valuable contribution in this particular field. The author is

to be commended for the able manner in which he has exploited the original sources. Official documents and private letters of the leading statesmen have been examined with great diligence. From the vast mass of material concerning executive appointments, he has sifted out practically all that is historically important and arranged it in an attractive and scholarly manner. One chapter traces the genesis of the spoils system—and here the author is careful to say that this system was not the work of Jackson or indeed of any one man, but the result of gradual development. Another deals with the machinery of the spoils system, while a third discusses the present status of the civil service reform movement.

With all his care for detail, Mr. Fish has not explained fully the real effect of the Crawford bill, he has neglected to give Thomas Allen Jenckes full credit for the part which he played in bringing about civil service reform, and he has overlooked much that is important in the Pendleton bill. While it is perhaps more courteous to say little about the present administration, a few general remarks as to the President's attitude would have added much to the real value of the work. In short, the political significance of events has been forced to give way in too many instances, to a narration of facts purely historical. However, Mr. Fish brings out clearly the thought, that the full appreciation of the evils of the spoils system ought not to blind us to the fact that it did a genuine service, which could have been performed in no other way, and for this reason the nefarious system was well worth its full cost. He says: "The true cause for the introduction of this system was the triumph of Democracy." He then goes on to show that because of party organization, civil service has of necessity become the pay roll of the party leader. Limited patronage is a necessity to organized parties, but the worst elements have been eliminated, and we can look in the near future for further improvement in dealing with the power of appointment.

WARD W. PIERSON.

*University of Pennsylvania.*

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**Jebb, Richard.** *Studies in Colonial Nationalism.* Pp. xv, 336. Price, \$3.50. New York: Longmans, Green & Co.; London: Edward Arnold, 1905.

While warmly advocating Mr. Chamberlain's proposal for preferential tariffs, Mr. Jebb believes that every effort made to bring the parts of the empire closer together must respect and encourage the national aspirations of the self-governing colonies. As soon as any colony arrives at national maturity, socially, commercially and politically, as is already the case in Canada and Australia, its independent status should be fully and freely recognized by the mother country. New Zealand has the potentialities of independent nationality, while South Africa, as a result of the war, is in a position to overcome racial differences and grow into compact nationality as Canada has done.

The author considers the whole agitation for imperial federation based on an absolute failure to appreciate separate national ideals, since in the minds

of its chief advocates, the scheme connotes a dependence on the mother country which self-respecting nations could not recognize. Evidence of a similar misconception in governmental policy the author finds in the amendment of the Commonwealth bill by the Imperial Parliament (especially as the character of the amendment was such as to emphasize imperial dependence), and in the continued resistance to any plan for distinct naval establishments provided and controlled by Canada and Australia.

In the discussion of Canadian nationalism the author attempts to show that the existence of a powerful and aggressive neighbor to the South, by emphasizing the need of united resistance in Canada, has favored the growth of national sentiment, finally overcoming, in a large measure, the separatist tendencies of the French province, and in other parts of the dominion, replacing loyalty to the empire by patriotism. The failure of Great Britain in various crises to protect Canadian interests as she was expected to do against American aggressions, has, the author believes, seriously weakened the tie binding Canada to the empire.

To the United States, in the discussion of this question the author's attitude is unreservedly hostile. In a long series of negotiations, he maintains, America has employed a tricky and brow-beating diplomacy to cheat Canada out of her just rights (pp. 50-57), while Great Britain, instead of successfully resisting, has in each case sacrificed Canadian interests in repeatedly futile attempts to court American favor. In the Alaskan boundary dispute, to which two chapters of the book are devoted, the appointment of such "notorious anti-Canadian partisans" as Elihu Root and Senators Lodge and Turner as "impartial jurists of repute," is stamped as a flagrant breach of faith (p. 40). Under pressure from London, Canada again acquiesced and was again "betrayed" in order that any unfavorable impression left by the prosecution of the Venezuelan claims might be neutralized. These strictures upon American diplomacy do not call for extended comment. In fairness, it should be noted that the author is likewise unsparing in criticism of his own government. However, his observations on America, though justly calling attention to many undoubted and serious faults, indicate on the whole an exaggerated and distorted view of our public life.

Turning from the critical to the constructive part of Mr. Jebb's work, he believes that any plan of imperial union must be based upon the principle of alliance. "In contrast to federation the principle of alliance would leave intact the sovereign right of each ally to act upon its own responsibility in foreign affairs in the last resort" (p. 273). "In matters of defense likewise, the principle of alliance secures each nation perfect freedom to develop and control its own military and naval resources in such a manner as will not tend to prejudice national safety, supposing the alliance to be terminated suddenly" (p. 274).

Regarding commercial matters each member of the alliance should pursue that tariff policy which is best adapted to maintain an efficient employment of its own people. The idea of bringing such widely differentiated countries as Great Britain, Canada and Australia into one industrial entity, such as a Zollverein presupposes, Mr. Jebb considers absolutely unthinkable.

Aside from regular ambassadorial functions, somewhat amplified as

between the allied nations, the author does not contemplate the creation of any new administrative machinery.

To many readers the feasibility of Mr. Jebb's plan of union will doubtless appear more or less problematical. The union, it is to be noted, is not to be based upon the consciousness of common race; no dream of Anglo-Saxon dominion is suggested. In the purposes of the alliance the French in Quebec, the Maoris in New Zealand, and ultimately, the Boers in South Africa would be expected to co-operate. The alliance would rest essentially upon the advantages, both sentimental and material, supposed to be derived from membership in the big and indefinite something called the British Empire.

WILLARD E. HOTCHKISS.

*Northwestern University.*

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Lord, Eliot; Trenor, John J. D., and Barrows, Samuel J. *The Italian in America*. Pp. xi, 268. New York: B. F. Buck & Co., 1905.

The Italian in America is one of a projected series dealing with the nationalities that are making up the composite American. The preface states that "to welcome and utilize what is essentially good and helpful, even if yet imperfectly developed, is in the judgment of the authors the true American policy." A fair estimate of our Italian immigrants is just now timely and valuable. Recently a few magazine articles have called attention to the Italians' thrift, morality and temperance, their growing prosperity even amidst the city slums, and their tendency to adopt American ways in the second generation. "The Italian in America" brings together all this material, supplementing it with descriptions of Italian communities near large cities and in the South, with an outline study of the Italian immigration law, and a discussion of the "inheritance and progress of united Italy." This latter discussion does not, however, convince the doubting that the downtrodden and ignorant peasants of southern Italy have been transformed into fit subjects for American citizens by contemplating their country's historical greatness. What would be of more value, are detailed studies such as Mr. Brandenburg attempts, of the character of these people in their own homes.

Perhaps the most valuable chapter in the book for those unfamiliar with the agricultural possibilities of Italians is "On Farm and Plantation." Mention is made of truck gardening near large cities, such as New Haven, Norfolk, Baltimore, Memphis, Washington or New York; grape growing at Canastota, N. Y., and in the wine belt of Ohio and Pennsylvania; strawberry plantations at Independence, La.; truck farming at Vineland, N. J.; agricultural colonies at Daphne and Lamberth, Ala., in Texas and Mississippi, and the famous Asti, California. Unfortunately there is no discussion of the means by which the penniless immigrant, who is landed in New York, may be placed on distant farms with a speedy prospect of the money returns for which he is so anxious. This, indeed, is the crucial point of the question of distribution. Moreover, no distinction has been made between the established colonies and those communities which have grown up as a result of unassisted settlement.

Mr. Barrow's chapter on pauperism, disease and crime is of interest, for

it shows that the facts do not substantiate the popular belief that these newcomers are fit subjects for the almshouse, hospital and prison.

The book as a whole is general in its treatment, somewhat objectionable because of frequent quotations, and partakes too much of the loose character of magazine articles. Such chapters as that on the "Privilege and Duties of Italian Citizenship" could easily be spared. Some facts regarding naturalization, vote buying, office holding, or the relation of Italians to the Irish in large cities would be of practical value.

The spirit of the book is much to be commended. It makes an admirable introduction to a subject which requires more detailed study and first-hand familiarity with existing conditions.

EMILY FOGG MEADE.

*Hammonton, N. J.*

**Oppenheim, L., LL. D.** *International Law: A Treatise.* Vol. I, "Peace." Pp. xxxvi, 610. Price, \$6.50 net. New York: Longmans, Green & Co., 1905.

It will be a matter of general rejoicing amongst students of international law that in the first volume of this treatise, we have at last a comprehensive treatment of the Law of Peace. Mr. Oppenheim has done more than to systematize the results of prior investigation. In every chapter his work gives evidence of independent research and independent thought. The author also shows a remarkable faculty for clear and concise formulation which means so much for the development of international law.

Another merit is that the method of treatment adapts this work equally well to the jurist and to the student. The references which precede each section are selected with excellent judgment and will be invaluable to those who wish to make more detailed investigations. In his method of treatment the author shows a keen appreciation of the forces that have contributed toward the development of international law. His treatment of the analogy between the development of international law and the growth of the private law is one of the most suggestive chapters of the book. With many of the treatises on international law, the great difficulty has been that they have failed to treat the subject as part of the general process of juristic evolution. The result has been a vagueness in treatment and a vagueness in method which has contributed much toward the retarding of the development of the subject. In this first volume of his work the author shows that he clearly appreciates this defect in the usual method of treatment. Taken all in all Mr. Oppenheim has given us the best treatment of the Law of Peace that we have as yet had.

LEO S. ROWE.

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**Unwin, George.** *Industrial Organization in the Sixteenth and Seventeenth Centuries.* Pp. viii, 276. Price, \$2.50 (7s. 6d.). Oxford: The Clarendon Press, 1904.

Mr. George Unwin's contribution to the economic history of England is likely to prove of equal interest to the sociologist, the economist and the his-



torian. To the first it furnishes numerous examples of the application of evolutionary principles to economic society; to the second, it gives concrete examples of the workings of monopoly and of the process through which the economic organization has been gradually built up. To the historian, it affords ample proof of the intimate relations and reactions of the economic and political forces at a time when the interaction of such forces can be more easily analyzed than to-day.

The strength of the work lies in the fact that it is directed to a somewhat limited field both in extent and in time. Of course the field investigated, viz., the history and functions of the liveried companies is by no means exhausted—it is just begun. But the tendencies are so clearly shown, the relationships so well delineated by the author that those who come after him will in this particular field be obliged to follow in the path blazed out by this book. It ought to take rank at once with Ashley's work on English economic history as a contribution of the first rank. If it is found to lack something of the masterly conciseness and vividness of impression left by Ashley's work, it is perhaps due rather to the complex and involved character of the task than to any lack of those qualities in the author's style. The matter contained in the appendices is of great interest. In looking over even the list of manuscript sources, one cannot refrain from expressing the hope that many of the companies may yet publish their records and thus put in a form accessible to the students of social sciences these invaluable records of their past history.

MAURICE H. ROBINSON.

*University of Illinois.*

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## NATIONAL REGULATION OF RAILROADS

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BY HON. MARTIN A. KNAPP,

Chairman, Interstate Commerce Commission.

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If I may venture to say anything upon a subject which has nearly exhausted discussion it will be to emphasize one or two points which perhaps have not been sufficiently noted and to outline certain considerations which I regard as fundamental. The agitation for a more efficient control of interstate carriers is the outgrowth of an insistent public sentiment and expresses a determined purpose to correct existing abuses. Since the passage of the act to regulate commerce in 1887, which in many respects was understood to be a tentative and experimental measure, no important change or enlargement of its provisions has been made, except the addition of the excellent Elkins law, although its limited scope and insufficient restraints have long been apparent. Meanwhile the railway mileage has increased upwards of 50 per cent., revenues have more than doubled, numerous lines formerly independent have been merged into great systems or otherwise brought under unified control, and many other conditions have arisen which were not foreseen or taken into account when the original law was enacted. The time has arrived when this scheme of regulation should be carefully revised not only in its substantive features, but also to an extent in its methods of administration.

This does not imply that the present law should be discarded and some new theory of regulation be given a trial. There is little reason to discredit the act of 1887 or warrant the effort to belittle its operation. It is a statute of broad and beneficent aim based upon principles which are concededly wholesome and correct. Indeed, when we remember that the enormous power of the Congress under the commerce clause of the Constitution had lain dormant for nearly a hundred years, when we call to mind the amazing rapidity of railway construction during the two speculative decades that followed the Civil War, when we take into account the conditions which had grown up with that extraordinary development and realize that practices which are now regarded with reprobation were then looked

upon with tolerance and found little condemnation in the average conscience, it is quite remarkable that a law should have been passed which expresses such just rules of conduct and which contains such comprehensive and salutary provisions. It is the part of wisdom, as I believe, not to attempt any radical departure from the principles and purposes of this enactment, but to supply needed legislation for correcting its defects, strengthening its provisions and augmenting its authority.

*The Basis of Regulation.*

In the statements before the Senate Committee and in current discussions in the press and elsewhere there is, as it appears to me, some confusion of thought and a degree of failure to make proper distinctions. In many quarters it seems to be supposed that the one thing requisite is to increase the powers of the Interstate Commerce Commission; whether that shall be done or not is the chief point of controversy. To my mind that is only one side, and perhaps not the most important side, of this complex and obstinate problem. Without disagreeing at all with those who advocate an enlargement of the commission's authority, for I am in full sympathy with their purposes, it is entirely clear to me that other matters are of equal if not greater consequence. There is much to be considered and decided before we come to the question of administrative power, which is merely the machinery for giving effect to measures of regulation. We must begin by prescribing in the statute law, with as much precision and certainty as the case admits, the rules of conduct which it is the province of administration to apply and enforce. The substantive law must first be made ample and explicit, clear and comprehensive in its definition of legal duty and as exact as may be in its restraints and requirements. The obligations of the railroads to the public, the restrictions which limit their freedom or abridge their privileges, the standards by which the lawfulness of their conduct is to be gauged, must all be found in the regulating statute as the necessary foundation of administrative action. It is one thing to enact a code of laws to be observed by the carrying corporations, it is quite another thing to provide the means for securing conformity to that code and giving effect to its requirements. If the substantive provisions of the

statute are inadequate or defective, if its standards of obligation and duty are insufficient or inexact, the shortcoming cannot be made good by administrative machinery, however elaborate or carefully constructed.

This is the point to which I specially desire to direct attention, because just here is found the explanation, for the most part, of whatever disappointment or failure has attended the effort to give effective operation to the act of 1887. The refusal of the courts to enforce disregarded orders of the commission has shown in practically every instance not that the facts had been incorrectly or unfairly found and reported, but that the ascertained and admitted facts, whatever injustice or wrongdoing they might appear to establish, did not disclose any violation of legal duty. The courts have not affirmed that certain practices condemned by the commission were right and just, and ought to be permitted to continue, they have merely declared that those practices are *not unlawful*. So far from furnishing grounds for questioning the fitness or fairness of the commission, which really is quite beside the mark, these very decisions by exposing defects in the substantive provisions of the statute supply a persuasive argument in favor of its amendment. Had the present law established a different tribunal or relied upon the federal courts to make it effective, the practical result would have been precisely the same.

The distinction here sought to be emphasized is made apparent, at least to my mind, when we take our observation from the correct point of view. Under the commerce clause of the Constitution all legislative power over interstate carriers is vested in the Congress. That power, as was decided by the Supreme Court so far back as 1825, is plenary and exclusive and subject to no limitations except such as are found in the Constitution itself. But the Congress cannot delegate its regulating authority by general or wholesale enactment; to do so would be little more than the declaration of a sentiment. It may legislate as minutely as it chooses; for any practical purpose it must legislate not only on general lines but as specifically as the nature of the case permits as to each and every matter which is made the subject of regulation. It cannot transfer its authority to an administrative body of its own creation, or even to the federal courts, to be exercised at discretion, except within limits and probably within somewhat narrow limits. In that which

is enacted must be found alike the things required and the things forbidden. If the statute itself does not impose a duty or restraint in respect of a particular matter, there can be as to that matter no basis for adjudging that the act complained of is unlawful. In this connection it should be remembered that the common law obligations of interstate carriers, if there be any, are of little value as restraints upon wrongdoing. The misconduct which injures and the practices which work injustice are not *malum per se*, and therefore they can be corrected only by legislative enactment. That is to say, "regulation" in all important and essential respects must be regulation by the Congress. The written law must go to the full extent of prescribing requirements, imposing restraints and fixing limitations, not only in general terms but as specifically as the nature of the particular subject admits; and if the statute is wanting in this regard, if its standards of duty and liability are not ample and plainly defined, the injustice not reached or forbidden because of that defect will go without correction. In a word, the substantial features of any adequate scheme of public control must be incorporated and defined in the provisions of an act of Congress. That which the statute law does not specifically condemn and definitely enjoin, the carrier is legally free to do or omit.

The importance of what has thus been said will perhaps be better understood by pointing out its practical application. The task in hand is to devise a system of regulating laws which, while preserving the benefits of private ownership, shall furnish sufficient control over railway carriers to ensure transportation charges which are reasonable and relatively just. Whatever difference of opinion there may be as to whether rates in general are higher now than they ought to be, or are liable to be excessive in the future if public authority does not amply prevent, there is a unanimous demand that rebates and every sort of private preference shall be done away with, and that rate adjustments as between different localities and articles of traffic shall be free from any unjust discrimination.

Now, to secure the results which all right-minded persons desire in this regard, it is evident that the regulating laws must at the outset require the publication of rates and charges and thereby provide, at least *prima facie* and for the time being, a legal standard of compensation for the service offered. In short, we must begin with providing an open and common rate readily ascertainable by the pub-



lic which measures while it remains in force the lawful charges of the carrier. Obviously, then, so long as observance of the standard rate is obligatory, whether it be established by the carrier's voluntary action, as is now the case, or prescribed in the first instance by public authority, the next problems of regulation are of two distinct and unlike classes. Stated in another way, there are two general but dissimilar things to be accomplished, each involving its peculiar difficulties. It is at once necessary to devise measures for ensuring conformity to the common standard and also to provide means by which the standard itself may be changed or its reasonableness tested. There is a fundamental difference between dealing with a rebate or secret concession of any kind and correcting an established and observed rate which is found to be excessive or relatively unjust. Yet adequate provision must be made for both these things in the statute law, independent of its administration, or the regulating scheme will be incomplete and disappointing. Unless both results are actually secured by substantive enactment, unless favoritism of every sort is prevented on the one hand, and on the other there are efficient means of altering an unreasonable or unjust rate which all shippers are compelled to pay, the public will lack needful protection and the duty of the carrier be incapable of enforcement.

It requires little reflection to perceive that the only efficient mode of dealing with the entire range of offenses which result from departures from the published rate is to place them in the category of criminal misdemeanors. Civil remedies for such wrongdoing are of insignificant value, for they neither afford redress to those who are injured by secret practices nor do they operate with any force to prevent the recurrence of similar misconduct. On the other hand, the appropriate means for bringing about the reduction of an unreasonable rate or a change in unjust rate relations preclude the use of criminal penalties. Within the limits of an honest difference of judgment—the limits of actual controversy—the rates established by the carrier and charged to all alike cannot in reason be made the basis of criminal liability, although they may afterwards be adjudged in some degree excessive or unfairly related. For one purpose, therefore, the suitable legislation will differ in essential character from that adapted to the other. To reach one class of offenses we must have penal statutes and criminal courts, to reach the other

class we must have standards of obligation applied and enforced by a civil tribunal. The failure to observe this primary distinction in general and in particular will leave the regulating enactment, however carefully devised and developed, more or less faulty and unworkable. Nor is it enough to recognize these unlike and diverse aims in framing the statute law; it is equally needful that each requirement be met with substantive provisions of comprehensive scope and adequate detail.

Let me illustrate with examples drawn from the act of 1887. And first, a defect in its penal provisions through failure to define, as to a distinct class of dishonest transactions, *an offense that could be proved*. It was undoubtedly intended to provide that a shipper who accepted a rebate should be guilty of a misdemeanor. That certainly ought to be the law. But the courts held, in construing the language of the second section, that it was not enough to show the payment of less than the tariff rate on a given shipment, but that in addition there must be shown the payment of a higher rate by another shipper for a like and contemporaneous service. That is, it was necessary to prove discrimination *in fact* as between the accused and some other shipper before there could be a conviction. As a practical matter this was ordinarily out of the question. For instance, it appeared that dressed beef was carried for a long time and in large quantities from the Missouri River to Chicago at materially less than tariff rates, but it also appeared that the same rate was allowed to all the packers. Although the concessions, or rebates, amounted to thousands and thousands of dollars, there was no actual discrimination as between different shippers, so far as could be ascertained, and therefore in a legal sense no criminal wrongdoing by any of them! Fortunately this loophole through which shippers escaped for years was stopped effectually, as is believed, by the Elkins law which makes the published tariff the legal standard and departure from that standard the punishable offense. But the point to be observed is that gross misconduct could be indulged in with impunity not because of any administrative shortcoming, but solely because the substantive law contained a provoking defect.

To illustrate the other and distinct phase of the subject, reference may be made to the long and short haul question. The charging of a higher rate to a nearer than to a more remote point,

though perhaps not the most serious, is undoubtedly the most aggravating form of discrimination. So obnoxious were tariff adjustments of this sort, so flagrantly wrong in many cases, that the Congress plainly intended to provide a specific remedy in the fourth section of the act to regulate commerce. The greater charge for the lesser distance was therefore prohibited "under substantially similar circumstances and conditions," and a long course of litigation followed over the legal meaning of the quoted phrase. Without reciting the cases in which this question arose, it is sufficient to say, taking the decisions together, that *dissimilarity* exists where competition, not merely of carriers but of markets as well, is present at the more distant place and absent or less forceful at the intermediate place, and that where dissimilarity is found the prohibition does not apply. Now, as a matter of fact, the higher charge for the shorter haul is rarely if ever exacted except on account of some competitive condition at the more distant point not existing at nearer places. It follows, therefore, that the exception to the rule covers practically all the actual cases and leaves the rule itself with little or nothing to act upon. A provision designed to have potent and remedial effect has been construed into a mere abstraction. I do not criticise the decisions of the courts upon this section. As a matter of statutory construction they were doubtless right. Nor is it to my present purpose to argue that the section should be amended and some practical limitation placed upon rate adjustments of this kind. That is for the Congress to determine. But I call attention to the fact that discrimination, however unjust, caused by lower charges for a longer distance—the shorter distance charges being reasonable *per se*—is not now unlawful, and that there must be a substantive change in the statute before there can be any administrative control or restraint upon this class of discriminations. It is primarily the subject of enacted regulation quite apart from the status or authority of the tribunal of administration.

Another example relates to a matter of undoubted importance. The present law in no way abridges the freedom of carriers to determine for themselves in the first instance the rates they shall charge, except the general requirement that such rates shall be reasonable and non-discriminatory, and there is no serious proposal to withdraw or limit their right to initiate such schedules as they may deem proper to establish. It is assumed that carriers will

continue to exercise their own judgment, as they do now, in deciding originally what rates they will publish and apply. This being so, it is apparent that some prescribed notice must be required of proposed changes in published tariffs. If there were no limitations upon the right of carriers to advance or reduce the rates which they have initiated, they could obviously make changes at pleasure which would be little better than not to publish rates at all. The sixth section of the act allows advances to be made on ten days' notice and reductions on three days' notice. This is the only requirement which goes to the stability of rates, a matter which deserves more attention than it sometimes receives. Plainly enough it is now feasible for a traffic manager to make an agreement or have an understanding with a given shipper, in consideration of tonnage secured, to publish a reduced rate at a certain date which may be done easily by giving a notice of three days. The tonnage in question having been obtained at this reduced rate, the carrier may at once give ten days' notice of advance to the previous figure and restore the old rate when that time has expired. The result is equivalent to a secret rebate paid to the shipper of the difference between the two rates. Neither court nor commission can now prevent a transaction of the kind suggested because the method employed is under statutory sanction. In a word, such a discrimination is not unlawful, and therefore cannot be reached or corrected so long as tariffs may be legally changed upon the short notice above stated. Believing that stability of rates is a matter of primary public concern and ought to be secured to a much greater degree than is now the case, I am strongly of the opinion that the required notice of tariff changes should be considerably extended. But my point now is that this is a regulation which pertains to the substantive law and that any injustice which results from authorized changes on such short notice cannot be corrected by strengthening the administrative machinery.

Again, the existing law permits connecting carriers to form through routes and establish joint through rates, which are usually much less than the sum of their local rates, but this they now do by voluntary action and not by virtue of any legal requirement. They are free to make such arrangements and to discontinue them as and when they see fit. The failure or refusal of connecting roads to form through routes and provide through rates sometimes inflicts

manifest hardship, and the fact that such rates cannot be compelled is claimed to discourage the construction of local and branch lines. Inasmuch as mutual service of this sort rests in the option of the carriers, it is not infrequently the case that shippers are obliged to pay full local rates over two or more roads because their managers cannot or do not agree upon lower through rates and their division. It follows that if needful joint service at proper rates is to be secured in such cases, it must be made obligatory in the substantive regulation.

Another instance of what I have in mind suggests a matter of great economic significance, and that is the relation of domestic to export and especially to import rates. It often happens now that traffic is carried from its origin in a foreign country to an interior destination in the United States at a total through rate very much less than the domestic rate from the same port of entry to the same destination. In a commercial sense of course the foreign article is carried under unlike circumstances and conditions; and this has been held by the Supreme Court to justify or permit import rates lower than domestic rates. Incidentally it may be noticed that the practical result of this ruling is at variance with our tariff policy and that in particular instances the difference in favor of the imported article may defeat the purpose of protective duties. However that may be, the act as construed in this regard, like the construction of the long and short haul clause, contains no practical restraint upon discriminations of this class, and this defect in the substantive law, if it be deemed a defect, cannot be obviated by changes in administrative methods or authority.

The same observations may be made in respect of many other matters which now give rise to well-founded complaints of discrimination, such as private car lines, terminal roads, elevators and the like. Some of these matters, at least under given circumstances, may be within the scope of the present law. Others are not embraced within its terms or are claimed by the carriers to be unaffected by its provisions. Until this claim has been passed upon by the court of last resort, which means protracted litigation, the discriminating effect of facilities and practices now unregulated must be suffered to continue. If some requirement or prohibition suited to the nature of the case is not embodied in the regulating statute the exempt transaction, however unjust or injurious, will remain a law-

ful exercise of the carrier's volition and so beyond the jurisdiction of courts or commissions. Only that which the statute enjoins can be required; only that which it makes unlawful can be prevented.

Thus it appears, if I am not mistaken, that in some important respects the foundation of the act of 1887 is badly constructed or incomplete to a degree not always appreciated. The partial failure of that act to accomplish its beneficent purpose arises mainly, as I conceive, not because the administration of the law has been lax or incompetent, nor altogether because judicial declaration has deprived the commission of authority over rates which it was originally supposed to possess, but because the substantive provisions of the statute do not provide the necessary groundwork for more successful effort. While I firmly believe that the powers of the commission should be enlarged, I also believe that it is even more essential to extend and recast the enacted rules of conduct and thereby provide the basis of effective control. It is for the Congress by its regulation to further enjoin, require, limit, restrict or forbid as may be needful or appropriate, and this is a matter which properly precedes the question of administration.

#### *Tribunals of Regulation.*

After the rules of conduct and standards of obligation to be observed by carriers have been determined and defined in the regulating statute, according as the Congress may determine, we come to the question of the agency and methods of administration. It is not now the extent or degree of authority to be exercised, but the kind of tribunal to perform the administrative duty. Shall the enforcement of the law be remitted to the federal courts or shall there be a commission to exercise legislative rather than judicial authority? In answering this question we must keep in mind the unlike and separable things to be accomplished by our scheme of regulation. As already stated, the only suitable means of securing the observance of published tariffs are criminal penalties for disregard or evasion, while the appropriate methods for bringing about such changes in those rates as justice may require are limited to civil proceedings. It is assumed that this distinction will be observed in framing the legislation and in every effort to give effect to its provisions.

Manifestly the criminal remedy can be applied only by the courts. In this respect there is no difference between a misdemeanor under the regulating statute and a misdemeanor under any other law. Both must be dealt with in the same way, and this implies in the one case as in the other a strictly judicial procedure. Therefore, all those provisions which are designed to prevent the payment of rebates and kindred practices, of whatever character or description, must be enforced by courts of proper jurisdiction, and can be enforced in no other way.

But when we consider the other field of administration, where authority is to be exercised not to secure conformity to the published standard of charges, but to change the standard itself when found unreasonable or relatively unjust, it seems plain to me that a judicial tribunal is neither suitable nor adequate. The fundamental objection to any proposal to devolve upon the courts the duty of regulating in this direction, that is, making required changes in tariff schedules, is that the questions involved are essentially legislative and not judicial. The thing to be done is not the appropriate subject of judicial determination. The courts cannot apply the requisite remedy. If the charge for a given service is fifty cents a hundred pounds and that charge is excessive, the needful change is the substitution of a lower charge for the future. This is distinctly a legislative function. The same may be said with equal certainty with reference to relative rates which discriminate between different localities or articles of traffic. The proper readjustment in such cases involves considerations which courts do not take into account, but which come within the broader range of legislative discretion. That the courts will not exercise jurisdiction to prescribe either absolute or relative rates appears to be plainly affirmed by the Supreme Court in the *Reagan* case, 154 U. S., 362, in the following language:

"The courts are not authorized to revise or change the body of rates imposed by a legislature or commission; they do not determine whether one rate is preferable to another, or what under all circumstances would be fair and reasonable as between the carriers and the shippers; they do not engage in any mere administrative work."

This distinction is tersely stated by Mr. Justice Brewer in the maximum rate case in these words:

"It is one thing to inquire whether the rates which have been charged and collected are reasonable—that is a judicial act; but an entirely different thing to prescribe rates which shall be charged in the future—that is a legislative act."

Undoubtedly the courts can and will under statutory authority, and to an important extent without it, exercise such jurisdiction as will indirectly affect rates for the future, but they cannot and will not undertake to prescribe the schedule which shall take the place of one found excessive or unfairly adjusted. They can prevent the administrative encroachment of constitutional rights, but they cannot be authorized to correct the injustice of an unreasonable or preferential rate by substituting a just and reasonable standard of charges. At best and at most the control of rates by judicial action is an indirect, uncertain and limited scheme of regulation. If that plan is adopted it is quite certain that we must enter upon a long litigation to find out how much the courts can do, how much they will do and how they will do it.

Broadly speaking, the judicial machinery is provided to punish those who violate criminal laws and to decide private as distinguished from public controversies. A tariff rate which is too high or which unduly discriminates does not constitute an individual grievance merely, but affects every person who may be required to pay that rate for a transportation service. The continuance of an unjust rate or its correction is a matter of public concern, and matters of public concern, apart from the enforcement of criminal laws, are ordinarily the appropriate subject not of judicial but of legislative determination.

The notion may be far-fetched and will doubtless be combatted, but I am disposed to regard a tariff rate which has been legally established as analogous to a civil law. It answers to the broad definition of such a law because it is in effect a rule of conduct which measures the obligation of shipper and carrier alike. As a practical matter so far as the public is concerned, it does not seem to me to very much matter whether a given rate is established by the voluntary action of the carrier, by the exercise of public authority in the first instance, or by direct legislation. In either case it fixes with substantially the force of an enactment the price at which public carriage can be obtained. If that rate is departed from by any sort of forbidden preference or concession, a condition exists which



seems to me exactly like the violation of a criminal statute, as is now the case, and courts are constituted to prevent and punish such transgressions. But if the rate is itself wrong, no matter how it came to be in force, if its application produces actual or relative injustice, a condition exists which is altogether similar to an unwise or oppressive act of legislation that ought to be amended or repealed.

If rates were established, as they might be, by direct legislation, it would be manifestly absurd, assuming they were not confiscatory, to provide for their alteration by resort to the courts. The appeal in such case would be to the legislature as the only source of relief. Likewise, if rates were fixed in the first instance by public authority, as is done in several states, the courts could not interfere except to protect constitutional rights. It seems plain to me that in such cases there could be ordinarily no question for judicial cognizance. Now, how does the way in which a given rate was originally imposed affect the nature of the appropriate tribunal of regulation? If rates fixed in the first instance by the legislature or by a commission with delegated powers could not be the subject of judicial inquiry, why is it that rates established by the carriers themselves should be subjected only to judicial investigation and control?

In a certain sense and for certain purposes the reasonableness of a transportation charge presents a judicial question. Such a question arises when a rate has been paid which is claimed to be unreasonable and suit is brought to recover the excess. But a rate may be claimed to be excessive from the standpoint of the public, without regard to any instance of individual hardship, and that rate presents a legislative question. It does not follow, therefore, even if rate control goes no further than to require the discontinuance of unreasonable charges without undertaking to prescribe for the future, that a legislative tribunal is not the proper one to determine the controversy. The circumstance that courts may in some cases and to some extent consider and decide such questions is not at all inconsistent with the idea that they are essentially legislative.

The view I take and the distinction I draw may be indicated by an example. The present grain rate from Chicago to New York, established by the carriers, is 17½ cents per hundred pounds. Now, I do not believe it would be possible by competent evidence in a judicial proceeding to prove that this rate is unreasonable. On the

other hand, if public authority should fix that rate at 15 cents—the rate recently in force—either by direct legislation or through a commission, I do not believe it possible for the carriers to prove by competent evidence that 15 cents would be confiscatory or in any way encroach upon their constitutional rights. Between these two rates there is a margin of two and a half cents which may be said to measure the sphere of legislative discretion. The courts might decide in a case within their jurisdiction that a given rate is not unreasonably high, but it does not follow that a lower rate on the same article imposed by public authority would be adjudged unreasonably low and therefore be restrained. In other words, a rate which the courts would not condemn in a suit to recover damages nor enjoin as the result of judicial inquiry, if that could be done, may be a higher rate in given circumstances than the public ought to be required to pay, just as a rate imposed upon the carrier which the courts would not condemn as confiscatory or for any other reason may be lower than the carrier should be permitted to charge.

It is both true and right that courts, generally speaking, decide the cases that come before them upon the legal evidence submitted and in accordance with settled principles of jurisprudence, and do not, as a rule, directly, if at all, take into account the economic consequence of their decisions. On the other hand, the legislature in determining whether existing rules of conduct shall be changed or new rules adopted is not controlled by evidence or by judicial precedent, but acts presumably upon the broadest considerations of public welfare. It is not too much to say that every controversy involving the adjustment of freight rates presents an economic problem whose solution should be determined with the view of promoting the largest public advantage consistent with the just rights of the carrier. The courts decide questions of legal right; legislatures consider, when their action is governed by intelligence, the probable effect of their enactments upon all the interests likely to be affected. These comments have reference to the distinct nature of the judicial function as distinguished from the legislative function. It is further to be observed that a scheme of rate regulation by the courts would doubtless be held unconstitutional, as numerous decisions affirm and as pointed out in the lucid opinion furnished by Attorney-General Moody to the Senate Committee. Therefore, from whatever point of view this matter is observed, it seems plain

to me that the questions here referred to are distinctly legislative questions and that the proper tribunal of regulation, whether its authority be greater or less, is legislative and not judicial.

*Administrative Authority.*

Having provided the needful code of substantive law and decided that it shall be administered by a commission and not by a court, so far as the regulation of rates is concerned, the next thing to determine is the measure of authority which the administrative body shall be permitted or required to exercise. Under the present law, as it has been interpreted, the commission cannot in any case determine what rate shall be observed in the future. It can only decide whether the charges fixed by the carriers conform to the standard of reasonableness and relative justice, and if found otherwise, direct their discontinuance. Whether the law shall be so amended as to authorize the commission, after investigating a complaint upon notice and opportunity to be heard, to prescribe the future rate in that case, if the complaint is well founded, is the stoutly controverted question. I do not undertake to discuss this question for I can add nothing to what has already been said. Besides, the purpose of this paper is to outline certain principles of regulation rather than to argue for an increase of official authority. I am firmly convinced that the agency entrusted with the enforcement of such rules of conduct as may be enacted in relation to rates should be a commission and not a court, whether the authority devolved upon the regulating tribunal be limited to the present or extend into the future. I realize that the power to decide, even in contested cases and subject to judicial review—which is all that is proposed and even more—what rates shall be charged in the future is a very important power and involves grave responsibility. Personally, as a member of the commission, I do not covet the exercise of that power and should welcome some other adequate solution of the question at issue; but how can any other plan be relied upon to provide proper and sufficient control over railroad rates and practices? The argument for denying such control virtually admits, as it seems to me, that the freedom of the carriers to make such obtainable rates as they may deem for their interest is not to be materially abridged. However far-reaching may be the proposal to invest a

commission in any case with actual authority over future rates, is not the denial of that authority, to be exercised by a legislative tribunal, a far more serious proposition?

*Effect of Administrative Action.*

One further observation. If an administrative tribunal rather than a court is the selected agency for enforcing the enacted rules of conduct in respect of rates, whatever be the extent or degree of its authority, the orders which it is empowered to make should be self-enforceable and not as now only *prima facie* findings for the purpose of legal proceedings. It is not sufficient or suitable that the administrative body charged with the duty of giving effect to the regulating statute, and exercising such authority as the Congress may confer, should be obliged, when its directions are disregarded, to become a suitor in the courts to enforce its own determinations. When the commission has investigated and decided, when it has promulgated such an order as it may be authorized to make, its duty in the premises should be fully discharged and ended. Subject to such judicial review as will protect against the abuse or unreasonable exercise of delegated authority, the lawful directions of the regulating tribunal, unless restrained or set aside by the courts, should take effect and be obligatory substantially the same as legislative enactments. Whether it be deemed sufficient to provide only for condemnation and orders of desistence, or whether in addition authority be bestowed to prescribe for the future, however much or little the power with which administration is invested, the legislation should be so framed as to compel the carrier to comply with an authorized requirement or to resort to the courts for its suspension or annulment.

Therefore, as I conceive, the problem of enacting or amending laws for the regulation of interstate carriers includes the four elements which I have thus briefly described. To my mind they are quite distinct and separable as I have endeavored to explain. Each presents its peculiar phases and furnishes its special field of controversy. The task of legislating upon this subject is difficult and the need urgent. It cannot be doubted that a correct analysis and clear apprehension of the principles involved will aid a wise and useful outcome.

## LIMITATIONS UPON NATIONAL REGULATION OF RAILROADS

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This paper is written from the point of view of those who are engaged in the management of the railroad business. For convenience of treatment, the subject is divided into three parts: 1. The Extent of the Federal Power over Railroads. 2. Limitations by Economic Laws. 3. Limitations by Common Law.

### *I. The Extent of the Federal Power over Railroads.*

The federal power over railroads is confined to their operations in respect to commerce with foreign nations, among the several states and with the Indian tribes. The courts have held that when an article of commerce begins to move from a point in one state to an ultimate destination in another state, or even to a destination in the same state, if it is to pass into another state in transit, interstate commerce with respect to that article begins. But there is still a very considerable movement of freight and passengers upon the railroads of this country which is confined within the limits of a single state and is entirely beyond the power of Congress to regulate.

Most of the equipment of nearly every railroad, however, is used from time to time in the movement of interstate commerce, and national regulations respecting safety appliances therefore include practically all the railroad equipment in the country.

Over that portion of the business of the railroads included in the term "interstate commerce," the power of Congress is absolutely exclusive whether actually exercised or not. Even in the absence of any enactment by the federal government the states are powerless to

enact laws which would amount to a regulation of interstate commerce.

The Supreme Court of the United States has said that the non-exercise by Congress of this power in respect to the regulation of commerce among the states is equivalent to a declaration that such commerce shall be free from any restrictions or impositions. The power to regulate has been held also to include power to prohibit commerce among the several states in cases where commerce affects injuriously the public welfare, as in the case of the sale of lottery tickets.

Aside from provisions for the general welfare of the public and the employees of the railroad companies found in the requirements respecting the instrumentalities of commerce, the federal regulation is most influential upon the rates which may be charged for the transportation service. Congress, undoubtedly, has power to prescribe reasonable rates for such transportation, either maximum, minimum or absolute. The magnitude of the problem as it is presented in this country and the manifest difficulty of dealing with it in a deliberative body so large as the Congress have naturally suggested the assignment of the labor to a commission; but the provision of the Constitution is that *Congress* shall have power to regulate. The fixing of rates is a legislative function and it is a well settled rule of law that Congress may not delegate its legislative functions to any subordinate board or body. The question arises whether Congress may delegate to a commission the power to prescribe transportation rates,—whether an act purporting to confer such power upon a commission would not be void as being an attempted delegation of a legislative function entrusted by the Constitution to the Congress.

The authorities agree that Congress may prescribe certain rules which shall be applicable to certain conditions and entrust to some executive officer or administrative board the determination of the question whether those conditions are present in a given case. Congress, for example, may authorize the President to suspend, by proclamation, the free introduction of certain commodities from a country which does not afford reciprocal treatment to our products, leaving to him the determination of the question of fact, whether the treatment accorded by such country is in fact reciprocal. Such an act was held not to be a delegation of legislative power and there-

fore not unconstitutional. (*Field vs. Clark*, 143 U. S., 649.) Or, Congress may leave to a board of inspectors the determination of the question whether teas presented for import are of inferior grade within the meaning of the act. (*Buttfield vs. Stranahan*, 192 U. S., 470.) But, if the act purports to transfer to a subordinate board or body any function which is properly legislative in its nature, whether its exercise be limited or unlimited, it should be held to be void.

It would not be permissible for Congress to confer upon a commission the power to fix transportation rates for the future, subject only to the limitation that such rates should be "reasonable." Such an act should be held void as a delegation of legislative power. It would be permissible for Congress to pass an act declaring that transportation rates should be reasonable, and conferring upon a commission, subject to a judicial review, the power to determine a maximum rate, any increase of which would be extortion, and a minimum rate, any decrease of which would be considered confiscation. But between these two extremes, Congress alone has the power to exercise the federal authority to prescribe.

The term "reasonable" as used in the law on the subject of rates for *quasi* public service is intended to define rates which are not so high, when considered from the point of view of the public with reference to the value of the service rendered, as to amount to extortion, and on the other hand are not so low, when considered from the point of view of the carrier with reference to the return upon the investment, as to amount to a taking of property without due process of law or confiscation. Between these two extremes, there may be, and usually is, a considerable latitude within which rates may be raised or lowered and still be reasonable. If Congress declares that the rates shall be reasonable, it simply declares that they shall not be so high as to amount to extortion, nor so low as to amount to confiscation, and it would be competent to commit to a commission the power to determine, subject to judicial review, the question whether a given schedule is outside the limit or not, in other words to fix the maximum and the minimum. But it would not be competent for Congress to give to any commission absolute discretion to fix the rates for the future within these limits of reasonableness, for that would be a delegation of legislative power and absolutely beyond the jurisdiction of the courts to review. The judicial power to review legislation on this subject extends only to relieving

the carrier from rates which amount to confiscation, or the shipper from rates which amount to extortion; but in the review of the action of a commission fixing maximum and minimum rates the judicial arm of the government would guarantee to the carrier a rate which would be measured by the fair value of the service rendered and any maximum rate thus fixed below that point would be set aside. If the lowest rate for a given transportation service which would allow the carrier a fair return upon his investment is eighty cents and the highest which would not amount to extortion is one hundred cents, the Congress might prescribe a rate of ninety cents, but a commission exercising a power to fix maximum or minimum rates could not lawfully adopt ninety as the minimum and ninety as the maximum. The courts would review such a proceeding and upon a proper showing would set it aside.

We are not unmindful of a number of decisions of the Supreme Court of the United States, which are cited as giving support to a different view, but we do not so understand them.<sup>1</sup>

## II. *Limitations Imposed by Economic Laws.*

There are certain limitations upon the exercise of the power of the government to regulate railroad rates which must be observed in the formulation of any statute designed to regulate rates. It is a common opinion among those who listen with approval to declamations in favor of government regulation of railroad rates that at the present time the rates for the transportation of freight by railroads in this country are prescribed by the traffic managers at will and that there is nothing to prevent their increase to almost any extent. This opinion is erroneous. Traffic managers of the railroads of this country do not make rates at will. There are at least two classes of limitations by which they are at all times controlled: (a) Limitations by economic laws; (b) Limitations by common law.

The first class of limitations upon the power of the traffic managers of the railroads of this country over rates is imposed by economic law. Any attempt at regulation of railroad rates by Congress which does not observe these limitations will be certain to fail to

<sup>1</sup> *Stone vs. Farmers' Loan and Trust Co.*, 116 U. S. 307; *Reagan vs. Farmers' Loan and Trust Co.*, 154 U. S. 362; *Interstate Commerce Commission vs. C. N. O. & T. P. Ry. Co.*, 167 U. S. 479.



satisfy the country as a whole, and if enforced and persisted in will do more harm than good to the commercial interests of the nation. The law to which we refer is the law of competition in trade.

In the first place, we must not lose sight of the very great variety of articles of commerce which are offered to the railroads for transportation. Some combine great value with very small weight or volume, while others combine great weight or volume with little value. Some are perishable. Some are frail. Some are alive. Some are dead. Some require two or three cars coupled together to support them, while others need no car at all but move upon wheels of their own. Some go on flat cars exposed to the storm; others will spoil if they are not kept dry. Some are so combustible that they cannot be placed near the engine. Some are explosive and will be discharged by rough handling of the car. Some must have water in transit and some must have ice, and some must be accompanied by an attendant.

These considerations and others, which might be mentioned, necessitate classification of freight; and classifications have been made in which some ten thousand different commodities which are from time to time offered to railroads for transportation, are named and classified; and such classifications are in force all over the country.

But classification of freight overcomes only a few of the difficulties which confront the rate-makers. Railroad business differs from almost every other kind of business in that it is not the carrier that can render the service with the least expense to itself that offers the lowest rate. If a railroad has been built between two points which furnish business sufficient to enable it, with reasonable rates, to pay operating expenses and a dividend, it is considered that any additional business which it may be able to secure, even though it may divert it from some other carrier having a direct route, is almost clear profit. It therefore happens that nearly every railroad company, in addition to what may be called its legitimate business, attempts to secure, by joint arrangement with its connections, traffic between points which are reached by it with its connections, not in a direct line but in a roundabout route, and in order to secure such traffic it offers rates much below what would be considered "reasonable" for the business which naturally belongs to it and which it is best qualified by reason of location to handle, and offers rates also

much below what the owners of a more direct route will demand for carrying the business. It often happens therefore that a railroad company having the shorter line between two important points may be compelled to meet the competition of a number of connecting lines constituting a route which is much longer and far away from the direct line.

The Michigan Central has a joint rate in force from Detroit to East St. Louis, and also to East Fort Madison, both being Mississippi River crossings. The rate to East Fort Madison is higher than the rate to East St. Louis, and that higher rate is applied to traffic destined to East Fort Madison. If, however, the traffic is destined to Omaha, the lines by way of East St. Louis will compete for the business and the carriers reaching East Fort Madison therefore publish another lower rate to that point for traffic destined beyond, which does not exceed the rate to East St. Louis. This lower rate is called a proportional rate.

Then there may be situated on the line of a railroad an industry making use of large quantities of raw material, all coming from some particular mine or quarry from which this particular industry takes the entire output. Here will be an extensive traffic in one particular commodity between the mine or quarry and this one industry, with which no other traffic comes into competition, and the carriers have found it advisable to publish a special rate for such business, known as a commodity rate. A number of articles, such as grain, coal, live stock and dressed meats, which move in very large quantities in one direction are handled upon a commodity rate.

It sometimes happens that a territory served by a carrier may have a product, peculiar to that territory, which seeks a market far away, and instead of making rates on that product varying with each station in the territory, it has been deemed fair to establish a rate which shall apply to all the stations in the territory, so that all within that district may sell their product at the same price and receive the same net proceeds after payment of the freight. Such rates are called group rates and they are quite common in some parts of the country.

The cost of water transportation from Chicago to New York is made the basis for the determination of the rates between the Atlantic seaboard points and a very large portion of the country; the rates to other points, by concerted action on the part of the

principal carriers, being made a certain percentage of the Chicago rate. Thus the rate from New York to Cincinnati is 87 per cent. of the Chicago rate; to St. Louis, 116 per cent.; to Louisville, 100 per cent.; to Cleveland, 71 per cent.; etc. In some sections of the country the areas of these groups are defined, bounded and published upon a map which is placed in the hands of the traffic managers of the interested roads. The groups vary in size and their area is regulated by commercial conditions.

These various classes of rates, as well as the classification of freight, are made necessary by commercial considerations, and result from the laws of trade which must be given effect and recognition in any attempt at national regulation.

The plan of grouping has been objected to as denying to the producers in some parts of the territory included in the group, the advantage to which their location, that is, their proximity to the market, is supposed to entitle them; and it is likely that if the government should attempt to prescribe rates, there would be an effort made to have the group system abandoned. But it has been demonstrated in the experience of Germany that it is for the best interest of the nation to put the entire territory upon an equal footing as far as possible, rather than to allow to each farmer some advantage in freight rates over his next neighbor who may live a short distance farther away from the market, because of his geographical location. In other words, rates must be such as to stimulate production and at the same time move the product. In Germany, where they have had government ownership of railroads since 1879, the government prescribed a rate on grain of a certain sum per ton per mile, regardless of the distance moved and regardless of all other conditions affecting the grain trade. The result was that grain could not move by rail from eastern Germany, where it was raised in large quantities, to western Germany, where the demand was greatest, but was compelled to seek an outlet by a devious water route with a short rail haul at both ends of the line. In 1888 the farmers of eastern Germany demanded a reduction of the grain rate so as to permit them to move it by rail, but the demand was refused on the ground that a reduction would have a tendency to raise the value of farm land in eastern Germany and deny to the farmers in western Germany the advantage to which they were entitled by their geographical location. In 1891 there were serious

crop failures which brought great hardship upon the laborers in western Germany, and the government was constrained to reduce the rate on grain for distances over one hundred and twenty-five miles, and a sliding scale was put in force which afforded some relief and permitted the grain from eastern Germany to move into the western portion of the empire by rail; but the rate was still much too high and much more than the traffic would bear. The farmers of southern and western Germany protested that they were being deprived of their geographical advantage and when, in 1894, the government desired to make a commercial treaty with Russia, the southern provinces, whose representatives held the balance of power, refused to assent to it unless the rates on grain were changed. The Russian treaty was very important and so an order was issued restoring the uniform rate on grain of a certain sum per ton per mile, regardless of the length of the haul. The result was that the treaty with Russia was promptly authorized.

At the same time, there was a tariff on grain of \$8.75 per ton and all grain imported into the German Empire was required to pay \$8.75 to the government, so the government allowed to the farmers of eastern Germany a bounty of \$8.75 per ton on all grain exported, to enable them to realize the same price for their grain that the farmers in western and southwestern Germany received, the latter price being regulated by the cost of imported grain at the border, plus the tariff.

This illustrates the result in Germany of a government regulation of rates which does not recognize the necessity of limiting the rate to what the traffic will bear, but rests upon the principle that each community is entitled to the advantage resulting from its geographical location.<sup>2</sup>

If the strict rule of making the rate per ton per mile the same for every movement, whether the haul is long or short, be modified by adopting a sliding scale, it necessarily follows that commodities can be moved from the place of production to the market for much less if they go in a single through shipment than if they go to an intermediate dealer and are then reshipped by him. The total charge for a long haul will be less than the total charge for the movement to the same destination by means of two shorter hauls. This tends

<sup>2</sup> See testimony of Prof. Hugo Meyer before the Interstate Commerce Committee of the United States Senate in 1905.

to centralize trade. Under the system of rate making in this country with the privileges of stop-over and reshipment at the balance of the through rate, and the basing point system, the jobber in the interior is able to compete with the shipper at the seaboard; merchants far removed from the point of production of the commodity they handle are able to sell in competition with dealers residing in the locality where the commodity is produced; and our group rates extend the markets for the products of our enterprise.

We often hear the expression that the railroads have "annihilated distance" in this country. It is the system of rate making that has annihilated distance, and it is the annihilation of distance by the system of rate making of the railroads that is responsible very largely for our tremendous industrial development. In Germany, the railroads do not have that effect because their system of rate making does not recognize the laws of trade and competition. Suppose there had been maintained in this country for the last forty years, under government regulation, a system of strictly distance tariffs, there would have been no substantial industrial development in the states between the Mississippi River and the Rocky Mountains. The reduction of rates on grain from the prairies to the East, to a point where they would stimulate production and move the product, resulted in a reduction in the value of farm lands in the New England and Middle States and an increase in the value of farm land in the West, but this has not proved to be destructive to the industrial growth of New England and the Middle States. The increase in the farm values in the West has induced immigration to these farms, and the consequence has been a wide extension of the markets for the manufacturers of the East. The policy of the rate makers has been to build up the industries on their respective lines by making rates, as far as possible, that would permit the products of those industries to be sold far and wide in competition with similar products of industries situated in remote parts of the country.

It may be said that this is no argument against government regulation. We do not make the statement primarily as an argument against government regulation. What we do say is that any effort at government regulation must recognize these principles and follow the plan which the railroads themselves have adopted, or it will do more harm than good. But it is hardly likely that the government will be able to regulate rates comprehensively, with as

much success as the railroad managers themselves. Two great forces which control the rate makers to-day are: (1) the desire to stimulate production along their respective lines, and (2) the contest of trade centers for supremacy. These are competitive forces of a powerful nature, and any governmental body which should undertake to fix all the rates for transportation in this country would probably be compelled to ignore the first, and would be likely to be accused of being influenced by political considerations, if it undertook to give any recognition to the second.

### III. *Limitations by Common Law.*

We have said that there are two classes of regulations which control the rate makers of this country, the first being limitations by economic laws. Another class of limitations is made up of those imposed by common law.

It has been the rule of the common law from time immemorial that when one devotes his property to a use which is of such a nature, by reason of public aid in its investment or by reason of the monopolistic character of the service rendered, that it is said to be impressed with a public interest, he is bound to content himself with charges that are reasonable. So, if a man erected in a harbor a wharf or crane which by reason of a grant of public aid in its construction, or by reason of the fact that there was no other crane in the harbor, could be said to be impressed with a public interest, it was held that he must limit his charges to such as would constitute a reasonable reward for the service rendered. In comparatively modern times and particularly in this country in the period of the Granger cases, there was an attempt to regulate charges for public utilities by legislation and it has been held to be a rule of common law that while the charges for such public utilities must be limited to such as constitute reasonable compensation for the services rendered, at the same time they may not be reduced by legislation to a point below what will yield a fair return to the owner upon his investment. The existing national legislation upon the subject of rates has done little more than to declare the principles of the common law, which are more than two centuries old. And after all, reasonableness is really the sole test of the validity of a rate for transportation by a common carrier. This is the limitation to which we now refer,—that rates shall be reasonable.

It becomes important to inquire what are the considerations which control in a determination of the question of reasonableness. We have already noted the fact that there may be a wide range of rates for the performance of a given transportation service within which any rate charged will be held to be reasonable. The lowest will be the minimum and the highest will be the maximum. The question of what is the minimum rate which will be held to be reasonable, generally arises upon the complaint of the carrier, while the question of what is the maximum rate, usually arises on complaint of some customer of the carrier, or on complaint of some public officer, and the considerations which control in determining the two questions are as far apart as the different points of view.

First, then, in a review of legislative action, what will be held unreasonable upon complaint of the carrier? What is the minimum?

It has been held by the courts that a railroad company is entitled to charge rates which will enable it to pay its legitimate operating expenses, taxes, the cost of maintenance, and interest upon money borrowed and actually devoted to the enterprise, and some return upon the investment represented by the capital stock. Some cases hold that the carrier is not only entitled to all these things and *some* return upon the investment represented by the capital stock, but a *fair* return.

It may happen that the property devoted to the enterprise at the time of the investigation of the question of the reasonableness of the rates may be worth much more than it originally cost, or much less, and some courts hold that what the carrier is entitled to is a return upon such value at the time of the investigation, regardless of the original cost.

In the application of any of these rules difficulties are likely to be encountered, for it is uncertain what deductions are to be made from the gross earnings on account of operating expenses and maintenance, and it is also uncertain how we are to determine the actual amount of money borrowed and devoted to the enterprise and how we are to determine the amount of actual investment represented by the capital stock; and if we adopt the other rule, allowing value to determine the investment, it is not clear what method is to be employed to measure the value. When a proper method has been adopted for the determination of the extent of the investment, it should be held, upon the complaint of a carrier, that he is entitled

to a fair return upon his investment. This fixes the minimum of reasonableness.

Second, in a review of legislative action, what will be held unreasonable upon the complaint of a shipper? What is the maximum?

Upon the complaint of a shipper, the net revenue of the carrier has nothing to do with the determination of the question of reasonableness. No shipper has the right to complain of a rate or a schedule of rates simply because the carrier is able to pay large dividends. As long as the rates charged do not exceed the value of the service rendered, the shipper has no right to complain; and the value of the service rendered is determined by commercial considerations, one of which is the cost of the service. Shippers are apt to forget that there has been for a number of years in this country a general upward tendency in the wages paid to the men and in the price of almost all kinds of supplies. Higher speed is demanded. Better accommodations for passengers are being constantly provided. Expensive safety appliances have been required. All these tend to increase the value of the service, and yet there are few persons who are willing that there should be any corresponding increase in the rates. On the contrary, there is a constant tendency downward in passenger rates wherever they are subject to state regulation, and the slightest increase in the average freight rate per ton per mile in the United States taken as a whole and averaged for a year, is viewed with suspicion and furnishes a text for an outburst of passion against the railroads. Upon the complaint of a shipper it should be held that the carrier is entitled to the fair value of the service rendered. This fixes the maximum.

A correct judgment as to the value of the service rendered in any given movement of freight depends upon the commercial conditions surrounding the movement, and it often happens that a complaint that rates are unreasonable may require for its proper adjudication a careful inquiry, not only into the business of the road that makes them, but also into the business of other roads, whose rates are supposed by comparison to show the injustice of the rates complained of.

Between these two points: the rates which will yield a return upon the investment as the minimum, and the rates which will not exceed the value of the service rendered as the maximum, there may be, and often is, a wide range, within which the carrier is at



liberty to prescribe the rates under the full protection of the law. And within this range it has been judicially determined that carriers are justified in charging less for a long haul than for a shorter haul over the same line in the same direction, the shorter haul being included within the longer distance, in cases where competition controls the rate to the longer distance point; and that carriers may charge less for the inland portion of the transportation of export or import freight than is charged for a similar movement of domestic freight.

It is probably true that these practices, both of which have been sustained by the courts, constitute the real basis of a great majority of the supposed grievances of which the shippers complain, but these practices are forced upon the carriers by trade conditions, and they are practices which distinguish the railroad business of this country from the railroad business in a country where trade conditions are ignored by government regulations, and where railroad construction and development is practically at a standstill. These are the practices which annihilate distance and tend to decentralize the population. The prohibition of these practices by a statute, upon the demand of the persons living nearest the great markets that they should be given the advantage to which their geographical location is supposed to entitle them, would stop the development of the interior and cripple the railroads and would produce restrictions upon the revenue of the carriers, which in many cases would probably be held by the courts to be unreasonable; and would impose, in other cases, rates beyond what the traffic would bear.

The present adjustment of railroad rates is most complicated, but it is the result of the operation of economic laws. The railroad managers have not made rates for the transportation of freight at will. They have been forced to limit the rates to what the traffic will bear,—using that expression, not in the offensive sense, as a description of a maximum of burden to which another straw could not be added without disaster, but in the sense in which it is used among traffic managers, as representing a rate which will stimulate production and move the product and at the same time yield a fair return to the carrier upon his investment in the enterprise. Rates thus adjusted will stand the judicial test for reasonableness, and no state or federal authority should deprive the carrier of the revenue which such rates will afford.

## FEDERAL CONTROL OF INTERSTATE COMMERCE

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The Republican administration, voicing the demand of the American people, has determined to give to the federal government power to regulate and control corporations engaged in interstate commerce. The various plans presented and the bills introduced at the last session of Congress have been criticised so severely by students of economics that the first lesson in remedial legislation is being learned,—the lesson of what not to do. So clearly have the defects of the proposed remedies been shown, that a straight and narrow pathway is appearing which will lead, unless blocked by political or other influences, to the passage of a law which will preserve the good features and at the same time eliminate the evils now existing in corporations engaged in interstate trade.

The bidding of the states for the chartering of corporations has created a body of laws which confer great powers—powers our forefathers never dreamed would be given to any group of individuals—to those who are willing to pay a small incorporation tax in exchange for such privileges. So little supervision and control are now exercised by the state governments that corporations are able, through the secrecy which surrounds their actions, to override the law and to some extent to be creatures subject only to the wishes and desires of the corporate managers. The futility of state control has become so apparent that, much against their wishes, our people are compelled to turn for protection to the federal government.

The constitution of the United States, by the third clause of Article I, Section VIII, has reserved to Congress the power “to regulate commerce with foreign nations and among the several states,” and has thereby vested in Congress the power to enact laws which will adequately control and regulate the agencies engaged in interstate trade. So well convinced are the authorities at Wash-

ington that Congress possesses such power, that Commissioner Garfield, of the Bureau of Corporations, in his first report, has said, that "It may be considered as established" that under these constitutional powers Congress may:

(1) Create corporations as a means of regulating interstate commerce.

(2) Give to such corporations the power to engage in interstate or foreign commerce.

(3) Prohibit any other corporations or individuals from engaging in the same.

(4) As a condition precedent to the grant of such corporate powers, lay any restrictions it chooses upon the organization's conduct or management of such corporation.

(5) Tax interstate commerce at will and the instrumentalities and corporations engaged therein.

(6) Provide regulations for the carrying on of interstate commerce generally and in such local affairs as are now left to the states in the "silence of Congress" under the principle established in *Cooley vs. Port Wardens* (12 How. 299), and in the carrying out of such powers it may use any or all means "which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the constitution."

Congress having the power to act and the administration having determined that such power shall be used to the curbing of corporate greed and corporate discrimination, it becomes the duty of every American to give his best thought to the consideration of the plans suggested in order that the combined wisdom of the American people may be brought to bear on the preparation of a federal incorporation act. To such an end the following plan is presented as a contribution to this discussion:

*First.* The power and authority of the Bureau of Corporations in the Department of Commerce and Labor should be enlarged so as to include the right to grant charters of incorporation to all who seek to engage in interstate or foreign commerce. This bureau should not only have this power, but all corporations, joint stock companies and other forms of organizations now existing or which hereinafter may be chartered by a state government, should be prohibited from engaging in interstate and foreign commerce until chartered by this bureau. Unless this bureau has the sole right to

incorporate associations engaged in interstate or foreign commerce, the effect of this plan would be defeated. Sub-companies would be organized in the different states, with or without the intervention of a holding company, and would not be subject to the control and regulation of this bureau.

This bureau should have not only the sole right to incorporate associations engaged in interstate and foreign commerce, but it should have absolute charge and complete control of its corporate children.

*Second.* Every corporation incorporated by this bureau should pay an organization tax of one-tenth of one per cent. upon the amount of capital stock authorized, and a like tax upon any subsequent issue.

The average organization tax in the various states is about one-tenth of one per cent. Experience has shown that this is the rate which incorporators are willing to pay for the privilege of owning a corporate charter and the amount that should be charged for giving such privilege.

The incorporation tax should be so low as to deter no group of men from carrying on business in a corporate capacity; for it is to corporations, with their large aggregation of capital, that we must look for the development of our country. Corporations, when backed by large capital, expert skill and great business ability, have often conferred material benefit on the community at large, and almost invariably insured the promotion of prosperity on a durable basis. They have furnished the people with many of the commodities of civilized existence at much lower prices than formerly, not only without decreasing the wages of labor, but in many instances increasing them, and eventually extending the field for a larger number of employees. India rubber goods, tobacco, leather and a great variety of other commodities are cheaper than at any former period of our country's existence; and wages are higher to-day than they have ever been, except in war times. Without corporations the great railway systems of our country could not have obtained the capital required to cover our land with a network of rails and could not carry freight and passengers at the low rates charged to-day.

Without corporations our manufacturers could not compete with the corporations of England, France and Germany in the race

for the Asiatic and the South American markets. To extend our markets, and thereby provide an outlet for our surplus products, and thus give constant employment to our workers and toilers, is the crying necessity of our economic life; and, in order to obtain these markets, giant corporations must be met and conquered by more powerful and far greater aggregations of capital, organized in the form of corporations.

*Third.* The stockholders and directors of corporations organized under the Corporation Bureau should be personally liable only to the following extent:

The stockholders should be personally liable,—

(a) To creditors, to an amount equal to the amount unpaid on the stock held by each stockholder.

(b) To the laborers, servants and employees other than contractors, for services performed by them for such corporation.

The directors should be personally liable,—

(a) For declaring dividends from any fund other than from the surplus profits arising from the business of the corporation.

(b) For loaning corporation money to any stockholder, or consenting to the corporation discounting any note or other evidence of debt.

(c) For violating any of the provisions of this act or any law of the United States.

The liability of stockholders and directors of corporations, except for violations of law or breach of trust, should be so limited as to deter no one from contributing his money to corporate enterprises. The provisions of this plan provide sufficient protection to creditors and to the general public, and no additional burdens to those hereinbefore set forth need be placed on corporate stockholders and corporate directors.

*Fourth.* The real and tangible personal property owned by corporations chartered by this bureau should be locally assessed and taxed in the civic divisions of the states in which the property is located, the same as the real and personal property owned by individuals. No higher or different rate of taxation and no other or different method of assessment should be applied to such corporations than is applied to corporations organized under the state law or to individual citizens.

The reason for such local taxation is twofold: First, the local

authorities have a better knowledge of the value of property and better facilities for obtaining this knowledge, and would, therefore, make fewer mistakes, than a board of examiners appointed from Washington and not residents of the locality where such property is located; secondly, the cities and counties of the states depend largely for their support upon the taxes levied upon the property of corporations located within their jurisdiction, and to withdraw this revenue would cause confusion and would increase the burdens of the local taxpayers.

*Fifth.* Every prospectus or advertisement issued or published with a view of obtaining subscriptions for shares or for bonds of a corporation, organized or to be organized by this bureau, should give full details as to its organization; the contracts into which the promoters or organizers have entered; the earnings for the two previous years of all underlying corporations; the amount of money to be used for preliminary expenses and the amount to be reserved for working capital; and all information necessary for safe and intelligent investment. For a false statement, or the issuing of a prospectus which does not make a full disclosure of the corporate affairs, the promoters and their associates, the officers and their agents, should be legally liable, both civilly and criminally.

This knowledge is at present inaccessible. The investor who puts money into a giant corporation must guess as best he can what property he is getting, and the guess is often a bad one for him. The making public of the above-mentioned facts will remove the gravest evils from stock-watering. If the investor knows that there is only one dollar of property back of every three dollars of stock and bonds, which is the case with so many corporations whose shares are listed at the exchanges to-day, he can buy the securities at a discount sufficient to make his investment safe.

When appeals are made to the public to subscribe to the capital of undertakings, it should be made obligatory on the corporate promoters, organizers and officers to disclose every fact known to them and unknown to the public, in order that everything be open and above board, and the parties, public and promoters alike, may deal with equal information in regard to the organization and the conduct of such companies.

Corporations now in existence and engaged in interstate or foreign trade, and desiring to obtain a charter from this bureau,

should furnish to the commissioner a detailed history of its organization and an itemized list of its assets and liabilities, a summary statement of which should be published in such newspapers as may be designated by the commissioner. By the possession of this report the bureau will be placed in the position by which it could investigate intelligently the affairs of the corporation and be able rightly to supervise its future corporate life.

*Sixth.* Every corporation should annually, during the month of January, make and file with the corporation department a statement as of the first day of January, verified by the oath of its president or vice-president and its secretary or treasurer, fully setting forth the following information:

(1) The name of the corporation and the place and date of its incorporation.

(2) The names, residence, and business or occupation of the officers and directors of the corporation.

(3) The business in which the corporation is actually engaged, and the states, territories, districts, or insular possessions in which it is engaged in transacting such business, specifying a person residing in each such state and territory, who shall be designated by such corporation as its legal representative upon whom service of any legal process or notice issuing out of any court or of the corporation department may be made.

(4) The cash value of the assets of the corporation and the nature and character of such assets.

(5) The amount of indebtedness of the corporation, and, if such indebtedness is secured, in what manner.

(6) A statement in detail of all bonds and mortgages issued by and outstanding against said corporation, showing when said bonds were issued, when the same become due, and the consideration received by the corporation for said bonds in property or money, and, if in property, the nature, situation and cash value of such property; and in case of mortgages, a statement showing the date of such mortgages, the date of their maturity, the property covered thereby, and the cash value thereof.

(7) The amount of shares of stock or bonds owned or controlled by said corporation in any other corporation, and the proportion of the entire capital stock which such holding represents, both in the reporting corporation and the corporation whose shares it holds.

(8) The amount of assets and liabilities of any corporation in which such reporting corporation holds stock or bonds, giving the character of such assets and liabilities and of what such assets and liabilities consist.

(9) The number of shares of the capital stock of the corporation which have been actually issued, and the amount and value of the consideration actually received into the treasury of the corporation for such shares; where the payment was made in money, then the amount in money per share; where such payment was made in property, a description of such property as to location, character, and the cash value thereof.

(10) That it is not a party to any contract or agreement for the purpose of, or which operates as, a restraint of trade or commerce, or which results in giving to either corporation a monopoly of trade in any article of common use or utility, or which results in any business or commercial advantage over other corporations or persons engaged in like trade, business, or commerce, by virtue of such agreement or contract. That it is not a party to any pooling plan, agreement, or contract with any other corporation for any purpose which, when carried into effect, would create a monopoly of the trade or business in which such corporation or corporations is engaged, or in any degree lessen or destroy competition between corporations or between corporations and natural persons engaged in business, trade, or commerce of a similar character.

(11) That no part of the capital stock of the corporation is owned, controlled, or voted by any other corporation, or by the officers of any other corporation.

(12) That the corporation does not have or receive any rebate, deduction, discrimination, drawback, preference, or advantage in rates of transportation or anything incident to such transportation from any common carrier—railroad, pipe line, water carriers or other transportation company—by which its products are or may be transported, which give to it any advantage or profit directly or indirectly as against any other person or corporation who ships or desires to ship products of a similar character over such transportation lines under like conditions; or if any such have been received or given, then such corporation shall state when, from whom, on what account, and in what manner it was received, making a detailed exposition of the entire transaction.



(13) If a corporation is a railroad or transportation company, or a common carrier of any kind, that during the past year it has not granted to any person or persons, corporation, or company any special rates, discriminations, advantages, or preferences whatsoever, neither has it received any such.

That if at any time a corporation, organized under the federal government shall fail to file its annual report as herein provided, or shall fail to give the information required, its officers should jointly and severally be personally liable to the United States in the sum of one thousand dollars per day for every day it transacts business; and if any such report shall contain a false statement, the officers making such false statement should be subject to a fine or imprisonment, or both.

The object of compelling the making and filing of this annual report is to put on record under oath two of the officers of the corporation in order that the department may have an additional hold on the responsible heads of the corporation for violation of law. The annual examination hereinafter provided will enable the department to verify the correctness of the report and thus ensure the truthfulness of the statements contained therein.

*Seventh.* The commissioner or head of this bureau, through his staff of examiners, should examine annually into the affairs of all corporations chartered by his department, inspecting their books, agreements, receipts, expenditures, vouchers, records of meetings of directors and of stockholders, and report the condition of their affairs as of the first of January of each year. Power should be given to compel the attendance of witnesses to be examined under oath, to call experts to testify as to values, and to require the production of all books, papers, contracts, agreements and documents relating to any subject under investigation, no matter in whose possession or in what part of the United States or of its dependencies such documents may be. The claim that any such testimony or evidence may tend to criminate the person giving such evidence or testimony should be met by a provision that any such evidence or testimony should not be used against such person on the trial of any criminal proceeding. But no person so testifying should be exempt from prosecution and punishment for perjury committed in so testifying. And if it should be found that a corporation is over-capitalized, or is violating any anti-trust or other law, the commis-

sioner of the corporation bureau, after giving to the corporation sixty days' written notice to comply with the laws, should place the evidence in the hands of the Attorney-General, who should immediately commence an action to annul its charter.

The commissioner should also have the power to compel corporations to furnish, from time to time, such statements in regard to the conduct of the corporate business, the change of stock interests, the financial condition of the company, and such other data as may, in his judgment, be necessary to a complete understanding of the business and the condition of the corporation.

A detailed report of the examination of the property, business, profits, and losses of every corporation chartered by this bureau, should be made each year and kept on file in the office of the commissioner. A summary statement of the corporate assets and liabilities, the amount of stock issued and the amount paid thereon, in cash and otherwise, the actual amount of surplus, and the nature and mode in which it is used and invested, should be published in a government paper, designated for that purpose, and in one newspaper published in the county where the principal place of business of such corporation is located. The publication of such facts would in no wise injure the corporation, while the publication of a detailed report might paralyze or destroy the business done by corporations. It is well known that a corporation, just as a partnership or an individual in business, in some years makes money, in some loses money, and in others comes out even, but in the average comes out ahead. If the creditors found at the end of a year that a corporation had lost money, how long would it be before the credit of that corporation would be lost; how long before the banks would refuse to renew or to discount its paper; how long before the creditors would place their claims in judgment and force the corporation into a receivership or into bankruptcy? Great care should be taken to protect amply the rights of privacy, while at the same time care should be exercised to protect the public by giving out such facts as they, as creditors, stockholders and prospective investors, are entitled to know.

The first concern of the government which grants charters of incorporation ought to be to see that its corporate offsprings are doing a legitimate business and are not violating any of the laws. Its second concern ought to be the giving to the public of all such

information as should affect the reasonable judgment of a man in determining whether he should or should not invest in a particular concern.

These obligations on the part of the government are universally recognized, but the means to be employed to effect these ends are still a matter of keen discussion.

Experience has abundantly proved that it is not practicable to allow corporations to issue their own reports without the existence of a board of inspection to verify the truth of the statements contained therein. Such a plan of reporting, without such inspection and verification, has been tried by the various states, and the result has been that the reports, if not so meagre as to be of no practical value, are of so complex a nature that the majority of persons are incapable of understanding or properly appreciating them.

As a matter of fact, a government board of examiners is absolutely indispensable for the realization of compulsory publicity. With such a board, the affairs of each corporation would become known, and the purchaser of bonds and of stocks could rely upon the corporation bureau to see that corporations are not over-capitalized, and that they are doing business honestly and fairly and within the provisions of law. In this way the corporation, the purchaser of corporate bonds and of stocks and the general public will be protected.

If the so-called "tobacco," "leather," "whiskey," "ice," "sugar," "steel" and "shipbuilding" trusts had been subjected to the ordeal of a thorough investigation by expert accountants and their true financial condition laid before the public, a large number of serious losses would have been prevented from falling upon innocent and worthy people. The fact that industrials as well as railroad and transportation companies are possessed of double attributes, of public and private nature combined, opens the way to abuse of official power. The favored few in the inner confidence of the managers have advantages in the general market to which they are not justly entitled.

The investigation of the refunding committee of the Pacific railroads at Washington brought out the evidence from one of the principal witnesses that the books connected with the construction of the road had been burned or destroyed as useless trash, although they contained the record of transactions involving hun-

dreds of millions of dollars, a record which became absolutely necessary to a fair settlement between the government and its debtors. There was put in evidence the fact that a certain party in interest had testified before another committee that he was present when \$54,000,000 of profits were divided equally among four partners,—himself and three others. None of the books of record containing this valuable information escaped the flames.

The investigation of various railroad corporations has shown that some of the managements have peculiar methods, if not delinquencies, in bookkeeping, which if they had received rigid investigation and the guilty parties had been held responsible for their acts, many of the great railway corporations would not have been wrecked during the panic of 1893-95.

Such annual inspection by a government board of examiners would prevent a repetition of these evils and would ensure the correctness of published reports and prospectuses, and would prove a check on the discriminations which have built up and destroyed so many corporations.

"Under the present industrial conditions," Mr. Garfield, in his report, says, "secrecy and dishonesty in promotion, overcapitalization, unfair discrimination by means of transportation and other rebates, unfair and predatory competition, secrecy of corporate administration and misleading or dishonest financial statements are generally recognized as the principal evils."

These evils would in a large measure disappear if the corporate managers knew that the government by an annual inspection would bring to light all their acts.

The government which gives to a group of citizens a charter of incorporation, a special privilege, an advantage they did not possess as individuals, has the right to know that the privilege is not being used unfairly and illegally. If a corporation is legally organized and is conducting a legitimate business, no injury will be done it by inspection.

*Eighth.* A progressive graded tax should be levied on the actual net profits of corporations chartered by this department above 6 per cent. Such tax might be graded as follows:

- 1-10 of the 1st per cent. above 6 per cent.
- 1-9 of the 2d per cent. above 6 per cent.

- 1-8 of the 3d per cent. above 6 per cent.
- 1-7 of the 4th per cent. above 6 per cent.
- 1-6 of the 5th per cent.. above 6 per cent.
- 1-5 of the 6th per cent. above 6 per cent.
- 1-4 of the 7th per cent. above 6 per cent.
- 1-3 of the 8th per cent. above 6 per cent.
- 1-2 of the 9th per cent. above 6 per cent.
- 6-10 of the 10th per cent. above 6 per cent.
- 7-10 of the 11th per cent. above 6 per cent.
- 8-10 of the 12th per cent. above 6 per cent.
- 9-10 of each per cent. of profits above 18 per cent.

Each corporation is rated according to the profits made. The corporate charter is valued exclusively by the prosperity of the corporation. A tax upon the profits would be governed by actual results and be equal in its effect upon different corporations, and be just in its general operation. Whether or not a corporation had a special privilege, in the nature of a monopoly given by the patent laws, by the tariff, by a special franchise, or by the control of the market, would make no difference in the laying of the tax. If a corporation possessed any of these privileges, it would be obliged to pay for each in proportion to its value, as evidenced by its earning power. A corporation should be permitted to earn a reasonable profit on its assets. If this permission were taken away, all incentive to carry on business would be killed, the affairs of corporations would be wound up, and the people would be compelled to face general disaster, the like of which the world has never known. That the percentage of profits allowed untaxed should be liberal, in view of the risk taken by the investor, no one would question. While four per cent. may be the average value of capital, we would suggest the allowance untaxed of six per cent. of actual net profits on the fair market value of the tangible assets of the corporation, as this percentage would be large enough to stimulate business and not so large as to work injustice between corporations chartered by this bureau and corporations chartered by the various states.

It is reasonable to assume that corporations will make all the profits they dare; and if we place a progressive graded tax upon their profits, their incentive to overcharge and increase their profits beyond a fair amount will be taken away, and their time, thought

and energy will be bestowed in bettering the quality of their products, in extending their markets, and in holding their place in the business world. Franchises, special privileges and tariff protection will not produce the valuable monopolies they are creating to-day, for upon the adoption of this plan of taxation the monopolies will not be allowed to yield the large profits that are now enjoyed. If a corporation has to pay as a tax 9-10 of each per cent. of profits above 18 per cent., it will not risk the losing of its trade for the sake of making so small a percentage of profit, and the people will get the benefit of a cheaper price and a better article.

*Ninth.* In determining the actual net profits earned by a corporation, the board of examiners should annually ascertain the fair market value of the tangible assets of the corporation, not taking into consideration the franchises, the capital stock, or its bonds.

This value may be obtained by an examination of the officers of the corporation, by inspection of its books, and by expert testimony. The board should deduct from the total earnings of the corporation the necessary and reasonable expenses of its management, including the actual amounts spent in renewing the plant, the cost of materials purchased and used, and, in order to avoid double taxation, the taxes paid on its property to all municipalities. Having obtained these amounts, the board should by ordinary business methods figure the percentage of profits earned in relation to its corporate assets.

*Tenth.* The cost of running the corporation bureau should be met in two ways:

(a) By the incorporation tax.

(b) By charging the various corporations examined an amount sufficient to pay the salaries and the expenses of the corporate examiners. The amount charged would only be about ten dollars a day for the time spent by the examiner in investigating the affairs of a corporation.

If the bureau was conducted on economical lines, a surplus ought to be obtained from the organization tax to go into the general fund; while the amount collected as a tax on profits could go to reduce the general expenses of the government.

*Eleventh.* Finally, the question may be asked whether the corporation bureau, or some commission or interstate court should be

given power to review and order changes in rates and to investigate and punish the giving of rebates by railroads?

The annual simultaneous inspection of railroads, and of industrial corporations proposed in the foregoing plan will discover whether railroads are giving rebates and whether they are discriminating between shippers in the matter of freight rates. The present laws on the statute books provide penalties of sufficient severity for the giving of rebates and for discriminations. Their ineffectiveness is due very largely to the inability of the government to obtain the facts upon which a judgment for conviction can be obtained. While the examination of the books of the common carriers alone might not secure the evidence required, the simultaneous examination of the affairs of transportation companies and of shipping corporations would undoubtedly bring to light all violations of the anti-rebate and discriminatory laws. No additional legislation appears to be needed if this proposed inspection is adopted.

The railroads, by governmental inspection, being freed from the pressure compelling the giving of rebates, will, for the first time, be enabled to compete with each other on equal terms. Competition will then be free and the railroad giving the best service or charging the lowest freight rates will get the business. The graded tax on profits above six per cent. will take away the desire to obtain large temporary profits at the risk of losing traffic by competing roads extending their lines to enter into direct competition.

With profits taxed so heavily and competition being on terms of absolute equality, the railroads would be compelled for their own protection to keep their rates reasonable and to give good service to the public. If this plan of inspection and taxation did not furnish the relief contemplated, the changed conditions resulting therefrom would undoubtedly suggest a remedy, possibly not so drastic as the remedies suggested to-day. Our democratic American government should not be permitted to step in and run the business of individuals by fixing the rates to be charged, whether such business be in its nature private, quasi-public or public, except as a last resort for the protection of the people when all other feasible plans have failed to provide the proper checks and needful remedies.

## CONSTITUTIONAL DIFFICULTIES OF TRUST REGULATION

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The present administration at Washington, in seeking to enact laws that will curb the power of the *trusts* and prevent the abuses so common among them, has heeded the outcry raised by many intelligent people. But the popular notion seems to be that all Congress has to do is to pass laws much as Aladdin might rub his lamp, and the wished-for remedy will appear. We must not forget that Congress is limited in the scope of its action by a written Constitution, and that the acts of the legislative department must be done with a view to carrying out some power granted to Congress. If that body passes a law that is not in harmony with the Constitution, it will be pronounced void by the Supreme Court.

### I.

Nowhere in the Constitution is Congress given the power to charter, regulate or control a corporation. It has long since been decided by the Supreme Court, however, that Congress has not only the specific powers mentioned in the Constitution, but also the implied powers which are necessary or proper to exercise in the performance of its specific duties. Thus, the authority vested in Congress "to establish post offices and post roads" is a definite grant of power which carries with it authority to legislate on subjects remotely connected with the mail service—authority, for example, to build a prison if that were necessary to punish those who rob the mails.

There is another important clause in the Constitution which must not be forgotten. Article X of the amendments reads: "The powers not delegated to the United States nor prohibited by it to the



states, are reserved to the states respectively or to the people." As the Constitution does not give to the federal government the right to charter or control corporations, that right must be reserved to the states or to the people; and since corporations are in all cases created by legislation, the right must be reserved to the states. It follows that any attempt on the part of Congress to enter this field of legislation, is an infringement on state rights, and therefore unconstitutional.

This conclusion must be absolutely true unless there is some specific duty imposed on Congress, the proper fulfillment of which demands that Congress legislate concerning corporations. It would then have implied power to do so. A very apt illustration is found in the chartering of a bank of the United States, which was upheld by the Supreme Court on the ground that it was incidental to the coinage and regulation of money—a prerogative vested in Congress. Yet this may not be so apt an illustration as the post office clause; for, with respect to the chartering of a bank of the United States, the Supreme Court said that it was an attribute of sovereignty to create a corporation, and no specific right need be vested in Congress.<sup>1</sup> If this be true, there is no need to seek further for constitutional justification for federal incorporation of interstate companies. The proposition is clear: let the United States charter all companies that desire to carry or sell goods among the several states.

Commissioner Garfield, in his report on corporations, finds some legal difficulties in such a measure, and indeed there are some. While it may be clear that Congress can incorporate a company doing interstate business, it is not evident that it can in this way abolish the trusts already created by state legislation. With that subject we shall deal presently. The commissioner recommends "Federal License" or "Federal Franchise."

Now, if any form of regulation or control is sought other than by direct federal incorporation, where shall we find authority? Aside from that very vague article which makes Congress the custodian of the public welfare, the only constitutional clause wherein we may hope to find authority for trust legislation, is that which says: "Congress shall have power to regulate commerce with foreign nations and among the several states." Under this clause the Sherman anti-trust law was passed in 1890, "to protect trade and

<sup>1</sup> *McCulloch vs. Maryland*, 4 *Wheaton*, 316.

commerce from unlawful restraint and monopoly." It provided that "any combination in form of trust or conspiracy in restraint of trade shall be illegal, and any participant in such combination . . . guilty of a misdemeanor." Up to the present year the Sherman act was so limited by judicial interpretation that it applied only to railroads and other common carriers. In the case of the United States against Knight Company<sup>2</sup> it was held that a monopoly for the manufacture of sugar did not fall within the provisions of the Sherman law because that act applied to interstate commerce only, and commerce did not commence until after the sugar had been manufactured. The court freely admitted, however, that a monopoly for the manufacture of sugar might tend to raise prices, and thus indirectly interfere with interstate commerce. The breaking up of the Northern Securities merger did not operate to extend the scope of the act, because that too dealt with common carriers. The recent "Beef Trust" decision is somewhat broader, but in that case the court found a conspiracy to exist which in their opinion was in restraint of trade. It is quite obvious that there are many abuses of the trusts which cannot be called a conspiracy in restraint of trade—abuses like the watering of stock—which tend to increase public suspicion of corporate organization, and which, as Judge Grosscup has pointed out, tend to lessen and destroy individualism by making the mass of the people withhold their capital from active business enterprise, abuses which must be checked, but which cannot be reached by the laws as they stand to-day.

Legislation must be extended so as to embrace control of corporations in all their functions. Whatever form such legislation may take, it must be enacted with a view to carrying out the power now vested in Congress to regulate commerce. To what extent would federal legislation be justifiable as a means to that end? As John Marshall said in the case of *Gibbons against Ogden*:<sup>3</sup> "The power to regulate commerce is not restricted to any one mode or any one branch. The term commerce describes the commercial intercourse between nations and parts of nations, in all its branches, and is regulated by prescribing the rules for carrying on that intercourse." This language is full of meaning: the power is not restricted by any one mode of *regulation* or any one branch of *com-*

<sup>2</sup> Reported, 156 U. S. 1.

<sup>3</sup> 9 Wheaton, 1.

merce, and commerce is regulated by *prescribing the rules for carrying on that intercourse*. Under this decision it would seem that a rule requiring all corporate acts be made public, or a rule prescribing that all commerce among the states be carried on only by individuals licensed, or by corporations chartered, by the United States, would be upheld as the exercise of an implied power.

Or again, if, as the court said in the sugar case, a monopoly for the manufacture of sugar may raise prices and thus *indirectly* interfere with interstate commerce, surely it may be added that Congress is not limited in the scope of its action to preventing *direct* interference. It may regulate commerce to the last and most minute detail, just as it may regulate the mail service to the last and most minute detail; it "acknowledges no limitations other than those prescribed by law;" and it may prevent indirect as well as direct interference with the trade among the several states.

Our conclusion is that the Supreme Court would, in a test case, be justified in upholding almost any form of legislation in this field, on the ground of implied powers; for the court would consider only this question: "Was the act of Congress designed as a means to the regulation of commerce, and is it adaptable to that end?" The court does not ask whether the law is necessary or unnecessary,—it asks whether it was enacted in pursuance of the carrying out of some power vested in Congress. But the Supreme Court might not uphold such legislation; it might follow the sugar case, and say that Congress has jurisdiction only over interstate commerce as such, and that any attempt to regulate, beyond the actual transportation of goods from one state to another, would be *ultra vires*.

There is naturally considerable room for conjecture as to how far the court would go. Let us take an illustration: we read much nowadays about copper mines without copper, and stock without assets—well, suppose Congress passed a law requiring all corporations doing interstate business to publish sworn statements of their assets, liabilities, earnings and stock issued. Would not the Supreme Court be entirely justified in ruling that such enactment did not affect commerce and was therefore unconstitutional? Even if such a law were sustained, can a mining company engaged in digging ore, and an oil company engaged in boring the earth, be said to be doing interstate commerce when both perhaps sell their product to another company (though owned by the same capitalists) which

transports the goods? What can prevent a coterie of railroad magnates from organizing themselves into a terminal company, selling themselves the privilege of landing passengers and freight, and thus fleecing the small stockholder and the public in general? None of these companies is engaged in interstate commerce. Herein lies the difficulty of all legislation designed to prevent fraud: it can, under the Constitution, be directed against "*interstate*" companies only, while others continue their fraud and abuses as indicated above.

Something can, no doubt, be accomplished by federal intervention. Of the methods usually spoken of to-day, "federal incorporation" seems to the author a more logical solution than mere "federal franchise," first because it does not involve the rather absurd situation of a corporation created by a sovereign state being taxed, controlled and allowed to live by the sovereign United States; and secondly, for reasons which will appear in Part II.

## II

The difficulty to be overcome in trying to solve the trust problem by means of federal incorporation does not lie in the vastness of the undertaking (that is a detail of the executive function), but rather in the conflict between state and nation—in the infringement on state rights which it seems to involve.

Several vital and intimately connected questions arise: (*a*) Was the right to create a corporation reserved to the states by reason of the fact that it was not granted to the United States? (*b*) May not both the United States and the several states enjoy the right? (*c*) Would it be possible for the United States to control or destroy the corporations created by the states or to prevent their engaging in interstate business?

(*a*) As we said in Part I, the right to create a corporation was certainly reserved to the states, unless it can be said that the United States has that function irrespective of direct grant in the Constitution. As a sovereignty, this nation can create a corporation. Nothing further appearing, it would be fair to assume that both the federal and state governments may exercise the right concurrently; the United States because of its sovereignty, and the states because the power which they had before the adoption of the Constitution was never taken from them. Or if the "commerce clause"

impliedly gave the right to the United States, at least the states may exercise the right until Congress chooses to do so.<sup>4</sup>

(b) While it is feasible to have corporations chartered by different powers operating at the same time, that situation does not help matters. Now, the doctrine is well settled that where the federal government has not acted, the states may, but when Congress legislates with respect to a subject matter within its jurisdiction, the states are thereby precluded.<sup>5</sup> As long ago as 1824 the State of New York was prevented from creating a steamboat trust, with the exclusive privilege of navigating the waters in and about New York. Congress having theretofore provided for the licensing of coasting vessels, had thereby withdrawn the subject-matter of navigation from state control, and the franchise granted by the New York legislature was pronounced void.<sup>6</sup>

•If then, Congress enacted laws providing that no corporation hereafter organized shall conduct an interstate business unless the same shall have been organized under federal law, the whole subject-matter would be withdrawn from state control, and the system of incorporating in one state for the purpose of exploiting the others would be at an end. But all this is not enough: it will not suffice to create good trusts in the future—we must rid ourselves of the bad trusts of the present.

(c) One thing is essential if federal incorporation be the plan adopted: existing as well as future companies must be brought within the federal law. To condemn the charters under the power of eminent domain would vest proprietorship in the United States—perfect state socialism. To declare the charters void would, under the decision in the case of “*Dartmouth College against Woodward*,”<sup>7</sup> be a violation of contract and therefore unconstitutional. There remains but one way in which the nation could secure control: tax the franchise or stock of state corporations doing interstate business so heavily that they would be forced to accept federal charters.

From the days of the Boston tea party the American people have had a deadly hatred for anything resembling unjust taxation. But a prohibitive tax is not unknown in this country. Under the stress of the Civil War the United States becoming obliged to secure

<sup>4</sup> *Thurlow vs. Mass.*, 5 How. Rep. 504.

<sup>5</sup> *Brown vs. Maryland*, 12 Wheaton, 419.

<sup>6</sup> *Gibbons vs. Ogden*, 9 Wheaton, 1.

<sup>7</sup> 4 Wheaton, 518.

a market for its bonds, placed a prohibitive tax of 10 per cent. on the issue of bank notes by state banks, and thereby forced the great majority of them to accept national charters and buy United States bonds.

In support of this means of securing control it may be argued that the tax would probably be upheld by the Supreme Court as incidental to the proper regulation of interstate commerce; for taxation has ever been recognized as a means of regulation. Moreover, if the United States taxed state corporations; the states could not—"for the term to regulate implies full power over the thing regulated; it excludes necessarily the action of all others who would perform the same operation on the same thing." Nor could any state tax a federal corporation.<sup>8</sup> There seems to be a conflict of interests in this situation. But where a conflict exists between state and nation, "that authority which is supreme must control; not yield to, that over which it is supreme."

One objection raised by Commissioner Garfield in his report was that "federal incorporation" would centralize vast power in the United States. On the contrary, this fact ought not to be considered an objection. The commissioner himself finds that the great difficulty attending regulation to-day lies in the diversity of state laws. Concentration of power would bring uniformity in the law as well as centralization of responsibility: to these we had best look for the desired reforms.

It is difficult to see how even compulsory federal incorporation could reach that class of evils mentioned at the end of Part I of this article, unless the nation arrogate the function of creating all corporations. But to take from the states by constitutional amendment, the right to create a corporation designed to operate within the state would be to spoil that nice adjustment of sovereignty between state and nation which forms so distinguishing and so highly cherished a feature of the American government. Many careful thinkers, however, recommend a constitutional amendment as the most practical solution; others, less careful, say, "between friends, what is the Constitution, anyhow?" and point to extra-constitutional acts in the past.

<sup>8</sup> On taxation in general, see *McCulloch vs. Maryland*, 4 Wheaton, 316; *Brown vs. Maryland*, *supra*; *Telegraph Co. vs. Texas*, 150 U. S. 460; and *Fargo vs. Mich.*, 121 U. S. 230.

## III.

It is true that many things have been done at Washington without the sanction of law; but there is a factor in the affairs of nations as well as of men, that transcends all law: economic necessity is a compelling force not to be restrained by written constitutions. When Jefferson negotiated the purchase of Louisiana he acted contrary to his own tenets and without authority. A great cry was made a year ago that President Roosevelt had overridden the Constitution in recognizing the Republic of Panama. Perhaps he did; at least it is clear to the writer's mind that the Republic would not have been recognized, had not the President foreseen the strategic and commercial necessity of building the canal. In 1803 it became essential for this nation to control forever the Mississippi and the commerce of North America; a century later it became essential for this nation to control the gateway to the Pacific, and thus assure forever dominion over the western continent and the trade of the world. These things and others have been done at the call of economic necessity, and have been ratified by Congress and approved by the people because they were necessary and not because they were within the strict letter of the law.

We must not, however, look for relief in the *trust* situation except through laws properly passed; for in the first place, *trust* legislation is far more likely to be brought before the Supreme Court for adjudication than matters of foreign policy; and in the second, the economic necessity for extra-constitutional action is not manifest when there is ample time to amend the Constitution if necessary. By an amendment, the powers of Congress might be carefully defined and the scope of its authority so extended as to give it exclusive jurisdiction to create and control all interstate companies. Some decided benefits might follow such a course. If the powers of Congress were exactly defined, the laws enacted would not run so great a risk of being pronounced unconstitutional. Again, the United States Senators might be more ready to act under the authority of an amendment than they showed themselves to be last year. At any rate the "common people" who are interested in railroad and *trust* matters (though not in the same way as many of the senators) would be in a position

to demand that some action be taken by the senators and representatives, or that their chairs in Congress be vacated.

Not the least objectionable feature of this plan, however, is the difficulty of the procedure. Two-thirds of both houses of Congress must agree on the amendment, which must then be ratified by three-fourths of the state legislatures.<sup>9</sup> If the Senate partly a whole winter over giving the Interstate Commerce Commission increased jurisdiction, we might expect them to agree on an amendment in the time of our great-grandchildren. More than that, the "State Rights" doctrine is still so strong in many states that it is very much to be doubted if three-fourths of the states could be brought to see the virtue in an amendment which would vest in the national government any increased power. Another great objection to passing an amendment is the fact that the necessity therefor is not absolutely apparent, and we ought not to tamper with our fundamental law unless the need is urgent. Until Congress has exhausted its present resources (the implied powers) there is no occasion for employing other ways and means for securing regulation of the *trusts*. Yet, as we have said, the only way to exhaust the present resources is to pass laws designed as a means to the regulation of "commerce among the several states," and then if these laws are pronounced unconstitutional, to enact new laws—surely a tedious and somewhat dangerous method involving many possible upheavals in the financial world as well as general business depression. It is not an easy thing to pass *trust* laws which will be upheld, for, as we have pointed out, the authority for such enactments can be found only by a breadth and liberality of judicial interpretation such as John Marshall was wont to give to the Constitution.

Without desiring to be pessimistic, we must say that even if appropriate laws were passed and sustained, no great good could be accomplished unless the enforcement thereof were vigorous and effective. The wiser policy will be to make haste slowly, and use the utmost care and skill in passing *trust* legislation, for the solution of the problem is as difficult and as complicated as the question itself is serious, and it demands both time, and the best work of the best brains of the land.

<sup>9</sup> Const. Art. 5.



## THE RELATION OF AUDITING TO PUBLIC CONTROL

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The corporation is an association of persons combined for common ends. The primary principle of economic and social advantage in corporate organization is to be found in the broader co-operation made possible thereby. The corporation is the modern instrument of private and public welfare, and any consideration to be given to the subject of control by the government should proceed from the point of view of welfare to the corporation, rather than opposition to it. While practices have been permitted by officers of corporations that are deserving of the severest condemnation as opposed to public interest, the hostility that is shown (especially to those forms of corporations known as "trusts") has in large measure been born of ignorance and fostered by envy—ignorance as to the character of the institutions through which much of our national prosperity has been attained, and envy that is in a measure attributable to the greater success of those who have worked through the corporation. Out of this hostility has developed much of harm both to the corporation and to the public. The products of misguided attack have been hasty legislation and abortive attempts at public control over the corporation as a means of hampering its prosperity—attempts which, in many instances, if successful, would have thwarted national progress, violated contracts, rendered uncertain business judgment and destroyed many of our best institutions. As concrete illustration of this we have the "granger legislation" of some twenty years ago, from the evil effects of which we have not yet wholly recovered—a species of legislative action which has practically driven the larger corporations out of local jurisdictions where they should have received legal protection, causing them to find cover in states far removed from investment capital interests and from the resources to be developed.

And this hostility is growing. By the corporations removing themselves from the jurisdiction of hostile, local courts and legislatures, by seeking protection as citizens of a foreign state under the federal constitution, the demand for public control now centers in the national capitol to which are sent the political representatives of these same hostile, local constituencies. Whatever may be the mellowing effect of broader association, whatever the wider view gained by representatives in Congress, these representatives (measured by their constituency according to the hostility which they display toward corporations) are forced into an attitude which is threatening both to corporate organization and to the integrity of the government itself. By making the legislative lobby the chief instrument of corporate protection, both the government and the corporation becomes corrupted till finally popular prejudice seeking expression in law, through ignorant bias may seriously handicap material development. Such is the situation that citizen and stockholder must face in any effort directed toward a better adaptation of the law to the growing needs of the nation.

Federal legislation may be regarded as inevitable; it is sought alike both by the corporation and by the public; it is sought by the one as a means of protecting corporate interest, by the other to the end of instituting forms of inquisition that may prove discouraging to corporate activity and destructive to industrial and commercial welfare. What the next few years will develop will depend largely on the mutual consideration given by parties in interest to the merits of the question. Nothing could be more dangerous than legislation that comes in response to popular hatred; neither would it be more fortunate if the law were shaped by the usual interests of corporate officials and agents, through sharp practice and deceit. The issues must be fairly considered and fairly met by both parties without regard to the wishes or dangerous contrivances of self-interested officials or peculating corporate agents who prosper by abusing the confidence of the public as well as of shareholding proprietors.

*Public Control and Public Welfare.*

*To be effective, public control must be such as will promote rather than impair public welfare.* Accepting this as our first premise for reasoning, there are two classes of concepts that must be

understood and appreciated. These may be the more clearly brought before us by the questions: (1) What is the character and significance of the institution or co-operating group known as the private corporation, and (2) What is the significance of control.

The private corporation is a democratic institution; it is the prototype of modern democratic government; it is the creature of the state designed to promote both public and private welfare; its purpose is to secure to its stockholders and to the public the benefits of broad association and intelligent co-operation in private business without the exercise of an arbitrary will or a Cæsarian prerogative by those in official or directing position. Both creative enactment and the organic corporate structure are designed to prevent the exercise of arbitrary power by those managing community interests. Legally and organically, the corporate will is the will of the majority of the stockholding proprietors; if the acts or policy of the corporation are not in accord with public ideals and do not proceed from the expression of the will of the majority of the stockholders, if any officer or coterie of agents does exercise arbitrary power, then legally and organically the public law makers, or the stockholders, or both are at fault for permitting their servants to assume to continue to exercise this arbitrary power.

It is to the end that neither public welfare nor the private proprietary purpose may be violated that *control*, both public and private, is to be instituted. It is for the purpose of making control effective, of making the corporation as well as each agent responsive to the state as well as to the proprietary shareholding interests—that the form of corporate organization is prescribed. The primary principle of *public* control lies in the fact that a corporation must obtain a charter; as a means of protecting *public welfare* no corporation is permitted to enjoy rights or exercise powers except such as are granted to it. The principles fundamental to *private* control, or the responsibility of the corporation and its agents to shareholding proprietors, lie in the legal provisions made with respect to corporate organization.

#### *Factors of Public Control.*

Let us consider in detail the factors of control. As related to *public welfare*, the powers of control lie with the government. These

powers are legislative, executive and judicial. The powers of government are both adequate and complete. The *legislature* as the representative of public opinion, as the corporate agent of welfare, determines for what purpose and in what manner corporate powers are to be exercised; it is through laws, general or specific, by virtue of which the corporate group obtains its charter powers, that all problems concerning public policy are to be the most effectively reached. The charter or contract of incorporation determines what a corporation may do or possess. Are there questions pertaining to rights of succession, to capitalization, to property, to methods of acquisition, to eminent domain, to powers of purchase and control of the stock of other corporations? Is the public aggrieved because of franchises or public utility enjoyed, because of the domination of a corporation by a single stockholder through his power to purchase or acquire a majority control or because of the pooling of stock interests? These, and all other questions which have to do with public policy or public well-being are to be fairly considered by the law-making or charter-granting branch of the government before the corporation is organized. Is the "trust" or the "holding company" an evil? Is the purpose for which the corporation is to be organized against public policy? Then the remedy is primarily in legislation governing charter grants, and not in executive or judicial inquisition, seeking to curtail rights granted or implied.

Once a charter has been granted and accepted, or a corporation organized in accordance with the provisions of a general law, the state, by all its administrative powers, *executive* and *judicial*, is bound to enforce the contract which has been entered into between the state and the incorporators. Neither the citizen nor the government may hope effectively to reach problems pertaining to public welfare or public policy except as they themselves may control their own representatives and agents, politically appointed or selected to formulate laws defining the powers and purposes of incorporated companies. A general law of incorporation stands on the statute books as an offer to all who may wish to comply with its terms; a charter is a grant on petition. This offer when accepted by incorporators (or petition when granted) becomes a sacred compact, inviolable by executive or by court. The charter grant or acceptance, or under the general law the acceptance of legal conditions imposed

becomes the basis for investment rights which must be upheld by the government in the same manner as are other institutions of private property.

*Legislative Inquiry as a Means of Public Control.*

After entering into a contract with a corporation, the only question which may be raised by the government is, whether or not the terms of the contract have been complied with. To determine this fact, the government may institute any form of inquiry which it may deem most convenient or effective. The state may rely entirely on its powers of legislative inquisition, appointing commissions to take testimony and to inquire minutely into the good faith of the corporation and of its agents; legislative inquiry may also be made for the purpose of determining conditions to be attached to subsequent charters granted, investigation being directed toward the problem of control of corporations to be organized rather than toward control over those existing under present laws.

*Executive Inspection and Examination of Corporate Records.*

Again, the state may constitute a regular department or corps of inspectors under the control of the executive. For example: banks are incorporated under the laws of the state. The public purpose of such an incorporated society is to have a responsible agent which will furnish to the community demand credits (so-called deposits) for use in business as current funds. The social advantage is to have provided a form of cash more convenient in use and less expensive than money. The bank offers to sell to its customer an account against which he may draw, thus saving him the expense and the risk of carrying a money stock large enough to answer the needs of his business. In passing laws for the incorporation of banks the government, as the agent of the public, is interested in knowing that the credit-account offered by the bank to its constituency as cash is "sound," *i. e.*, that it will be paid on demand. To this end the legislature requires that those associating themselves for bank purposes shall contribute a capital sufficient to provide the corporation with an adequate money stock out of which the credit-accounts sold to the public may be currently redeemed. Public welfare demands an adequate bona fide cash capital, and that

this capital shall not be permitted to become impaired. As a means of ascertaining whether the charter provisions have been complied with, the government creates a department of banking control, the chief function of which is to inspect and to receive reports from banks. This is done that the government, through its executive branch, may have the means of currently collecting evidence of good or bad faith on the part of the corporation or its agents, and protect the public as well as the institution itself against corporate infidelity which may thwart the purposes of its creation.

In the interest of common welfare (expressed in service rendered for which investors may obtain remunerative return) a savings bank is incorporated. With this institution, the principle of welfare is one of stimulating savings by providing an institution through which the small individual surpluses acquired through popular thrift and economy may be gathered into large corporate funds—funds large enough to maintain a staff of trained agents for the protection of the savings accounts, and for the proper direction of capital into remunerative investment. Safety of investment, the best rate of return compatible with safety, and prompt payment of savings accounts are the criteria held before the legislature in the offer made to prospective incorporators; this is the public interest which the government has in control over incorporated savings societies.

The trust company is another form of corporate organization for public service. In our modern, complex community, under conditions of constantly widening corporate organizations, many forms of trusts have grown up on the execution of which depends the safe conduct of business, and the protection of individuals and members who may be interested in institutional results. In this, the measure of control is fidelity, conservative investment of funds and income from estates, and financial responsibility. The insurance association is organized for social protection against material want and private penury—for the protection of families out of the combined incorporated estate of the insured. In all of the investment institutions, the shareholding proprietor, if such there be, is one who has contributed a portion of capital for the protection of trust resources, and to insure the financial responsibility of the institution organized for investment service. The stockholder of such an institution, therefore, has a double duty to perform—the

one to himself, the other to the beneficiary of the corporation to which the stockholder stands in relation of proprietor. In an institution which does not have the care of trust estates or trust funds, the penalty for failure on the part of the shareholding proprietor to perform his duty is personal loss; in a trustee institution whatever may be the pecuniary loss to the shareholder, the law should compel a strict propriety control in the interest of the beneficiary. In such case not only the officer of the institution, but the stockholder also stands in a position of trust responsibility.

The same is true of the public service corporation. If gas is to be supplied, the organic complexity of a modern municipality may require that the government exercise extreme care in the granting of charters, and that there be such inspection as to protect the public against inferiority of product. The water supply touches not alone the interest of public convenience, but also has an important bearing on public health. The transportation company is incorporated to perform a service on which depends not only commercial and industrial welfare, but quite as much conditions of health and comfort which are centered in the habitat of the individual citizen. Food, air, light, recreation and business are all closely interlaced with the affairs of the public service corporation. These are institutional facts that must be recognized and must be fairly dealt with by the corporation. On the other hand, the people must recognize the character of the corporation and must reckon with the fact that corporations are organized for public service and that any control which tends to hamper or weaken corporate activity must necessarily interfere with the usefulness of the corporation to the public itself.

With reference to all incorporated institutions the government, as the representative of social order and welfare, has an interest in knowing that corporate control is exercised over the agencies or trustees entrusted with the corporate estate—an interest in control which runs not only to the institution, as such, but also to the shareholding proprietor. This interest requires that the duties and responsibilities placed on the institution and on the shareholding proprietor shall be strictly fulfilled, but in case these corporate duties and responsibilities are met, every administrative controlling purpose shall have been complied with. As a means of knowing whether the corporation has complied with the charter contract, the govern-

ment vests its department of inspection with power to furnish to the state evidences of infidelity or non-feasance. But with this public inspection should end. The rights, powers and conditions under which the company is to operate must not be interfered with.

*The Courts, as Instruments of Public Control.*

Evidences of non-performance or malfeasance having been detected through official inspection, or otherwise, the department of justice stands ready, by mandamus, by injunction, by quo warranto proceedings, by receivership, or by charter annulment and dissolution, or other legal or equitable processes to enforce strict compliance with the contract made by the incorporators with the state. The courts may interfere either for the protection of public welfare or as a means of protecting the corporation itself against the acts of its agents. Through the courts any and all provisions made for social or corporate protection as defined in legislation, or in legal precedents of control may be strictly enforced. But any interference on the part of the government, either through its executive or judiciary, which goes beyond this would prove destructive to private right, and impair the purposes for which the government itself has been organized.

*Significance of Private or Institutional Control of Corporations.*

In approaching the problem of control two further premises may be laid down as a basis for reasoning: (1) that any influence which tends to encourage the larger and more rapid development of these several institutional forms of co-operation is an influence which makes for social progress and individual welfare; and conversely, that any influence which tends to discourage the larger and more rapid development of these several forms of co-operation are influences which stand in the way of social progress and individual welfare. (2) That in institutional and social welfare must be found the largest success of the corporation itself and, therefore, that the interest of the public is the interest of the shareholding proprietors of the corporation as well as of the several corporate agents entrusted with the management of its affairs.

Proceeding from the view-point of corporate success, the question of control resolves itself into terms of corporate integrity and



efficiency of corporate management. The ideal of corporate integrity is that every officer and employee shall completely bury his own selfish purposes and devote his best thought and talent to the ends and purposes of the institution. Corporate fidelity is the essential principle of corporate success. It is to the private corporation what patriotism is to the public institution.

Any system of control which looks to the success of the corporation must have in mind fidelity of service, and this must come from within and not from without. When corporate character has been established and a disposition exists on the part of employees to devote to the institution the best thought they have to give, the question of corporate efficiency is one which depends on the exercise of discretion in the choice of agents. But the exercise of this discretion must likewise be considered in any system of effective control; this cannot be supplied by government inspection or legal inquisition. The control which makes for corporate success is the control which encourages the larger and more rapid development of the several forms of institutional co-operation through which the largest social welfare may be attained. This control must be within the corporation itself and cannot come from without.

*Legal Provisions for Private Corporate Control.*

Before the committee appointed by the legislature of the State of New York to investigate the management of the insurance societies of that state, one of the directors of the Equitable Life Assurance Society of the United States, and a man prominent in the affairs of many corporations, expressed the opinion that the system of directorship in the great corporations of to-day is such that a director has practically no power; that the director (representing the beneficial interests) is considered a negligible quantity by the executive officers of the society; that especially was this true when one man obtained control over the affairs of the association. Whatever may be the practice or usage in our great corporations, this statement does not accord with the spirit and intent of the law. The law contemplates a strict control over the corporation by those holding a beneficiary interest. As before suggested, the legal provisions made for private control are found in the form of organization prescribed. The legal principle of private control is one of trusteeship—a prin-

ciple most carefully and righteously guarded by the courts holding the trustee to the strictest account. The trust organization as an instrument of corporate control may be described as follows: (1) As a means of rendering possible the prevention of the exercise of arbitrary power on the part of a single stockholding proprietor, the stockholders, as such, are deprived of all rights or powers to transact any of the business of the corporation; no proprietary power or franchise of the corporation is placed in the hands of the stockholders. The corporation as an artificial person is the sole owner and entitled to the exclusive, constructive possession of all properties; it alone has the right to exercise powers and to enjoy corporate privileges. (2) A further protection to the shareholder is found in the fact that the constructively possessed artificial person (the corporation) to which has been entrusted his capital has in itself no power to act except through living, thinking, morally and legally responsible officers or agents called a board of directors; these are selected by a majority vote of the shareholding proprietors of the corporation. (3) To make corporate trusteeship the more secure, to remove still farther the possibility for the exercise of arbitrary power on the part of those in control of the corporation, the active business of the company is taken out of the board; while they are the direct representatives of proprietors and beneficiaries they are permitted to act in a representative capacity only, being in the position of intermediaries between stockholders and beneficiaries whom they represent, and the officers appointed by them to carry out the details of the business. (4) The actual possession of properties, and the current operations of the company are left to officers or agents—creatures of the board appointed by and responsible to it. This corporate form of organization is intended to give to the shareholder a double protection, and to the corporation itself a triple legal bulwark—a triple refinement in agency responsibility. On the first group, the shareholder, rests the responsibility for expressing the corporate will by a majority vote, and for the selection of a representative board. The second group, the board or trustees selected by the shareholders, is responsible for the general direction to be given and for the selection of the active agents and employees of the company. The third group is responsible to the company through the board; while legally under the control of the directorate, the officers' ultimate responsibility is to the stockholders—the proprietors not of

the funds and properties, but of the corporation which owns the funds and properties.

With this form of organization it is possible to institute a system of corporate administration which will not only locate personal responsibility for every act of the company, but will also accurately determine the fidelity and ability of each agent. The problem of corporate administration is (1) to associate together a group of corporate servants, or agents, acting under a legally devised system of trusteeship which will effectively co-operate to carry out the purposes of the organization, and (2) to direct this co-operating or serving group with the highest intelligence and efficiency. *Private, corporate control goes to the second administrative problem above suggested, viz.: that of fidelity (public or private) to the purpose of the organization and to the intelligence and the efficiency with which each corporate agent or employee conducts himself.* The problem of corporate control, therefore, must be considered as having two significant bearings: (1) being a creature of the state, created in the interest of public welfare, public control may be exercised to the end that public interests may not be violated; (2) since the state has permitted it, as an institution, to receive contributions of capital as a means of accomplishing the common proprietary purpose, provision is made for the exercise of proprietary control over that institution and its agents as a protection to those having vested rights.

*Factors in Effective Private Control.*

With broader co-operation and consolidation, and with the increased complexity of organization, the problem of private corporate administration becomes an increasingly difficult one. Official and proprietary discretion must rest on intelligence. Adequate intelligence may come only through the operation of a thorough system of institutional record, inspection and account such as will give to those in positions of control an accurate knowledge of the details and results of business—a system of control which will give to each subordinate full credit for fidelity and ability, as well as mark the infidel and the incompetent for discipline or removal.

To be effective, a system of private or institutional control must also have regard to the several classes of proprietary and trust

responsibility provided for in the legal form of organization. Responsibility for administration is of four kinds: (1) The proprietary responsibility of stockholders; (2) the representative responsibility of a board; (3) the operative responsibility of the officer and of his subordinates, and (4) the employees' responsibility to those in directing position for intelligent and faithful service. Intelligent and effective corporate or private control, and the protection of those interests and purposes for which the corporation was created and capitalized, demands that the employee shall report to the officer, that the officer shall report to the board, that the board shall report to the share-proprietor, and that the share-proprietors shall with integrity perform their duties toward each other, toward creditors and the public in the exercise of proprietary discretion. To the end of obtaining accurate, well-classified, and well-digested information, answering to these several classes of responsibilities a system of subsidiary and controlling accounts is devised and installed by which those in operative and directive trust relations may keep an accurate record of the doings.

*The Relation of an Audit to Corporate Control.*

An audit pertains not to *public* control but to a system of *private* or *institutional* control; it has to do with administrative methods with operative results obtained by the corporation as a working group, and not with questions of public policy or public welfare. The audit is a method by which an accountant inspects the system of *private* administration for the purpose of determining whether this gives to the corporation itself and to the corporate proprietors the control which is intended by public laws of trusteeship—to determine where this control is weak or wanting, and where, on account of administrative weakness or lack of control, there has been infidelity or inefficiency in the service. Looking at the question of control from the view-point of corporate success, auditing is a primary essential without which neither the share-proprietor, the board, nor the officer himself may know whether the agent or subordinate has been faithful or, for that matter, the institution itself has fulfilled the purpose of its being. The audit has no direct relation or bearing to any method or system of public control as exercised under democratic, as distinguished from bureaucratic, government.

*The Relation of an Audit to Public Welfare.*

There are two general aspects of public interest in corporations, viz.: that which looks to the enforcement of charter contracts representing ideals of public policy and welfare, and that which would enforce social order as expressed in rules of business integrity, in performance of private legal obligations, in the execution of private trusts, etc. Proceeding from the assumption that the government should by proper legislation provide for the orderly conduct of a business, and for enforcing the performance of private duty, it may be held that in addition to the powers of inspection by the government as a means of determining whether charter provisions have been complied with, there should be a bureau of corporation audits which should inquire into the question of the working relations of the corporation. This argument, however, would seem to be vicious for two reasons: *First*, because there is no greater or stronger reason for the government inquiring into the private relations of corporations as a means of protecting parties interested against the infidelity of others, than there is for the government questioning the private relations of partners; in fact, under the legal form of organization, a corporation which has installed a proper system of private control would have less reason for the government inquiring into its working relations since there is every legal method provided for holding officers, agents and employees to the strictest account; there is no part of our law which is so jealously guarded and enforced, as is that which pertains to trustees—any infraction coming to the attention of a court finds remedy in civil damages and exemplary punishment under the criminal code. *Second*, for the reason that the corporation and those interested in the corporation are in a much better position administratively to protect themselves through a system of current account and regular audit than could possibly be done by a bureau or branch of the government.

As a means of providing for the orderly conduct of the business of its corporate creature, the only question that the government is interested in is to know whether or not the corporation has installed a method of record, inspection and account which will hold its officers and agents to a strict account, as contemplated in the form of corporate organization prescribed, and whether or not an independent or disinterested audit has been provided as a means of giving assurance

as to the correctness of financial or operative statements made. Such is the English law pertaining to corporations. The argument in support of this is that the corporation, being dependent on its agents for the exercise of its powers and for the use of its properties (its funds and other resources being entrusted to them), these same agents by reason of their position having in their hands the records and accounts through which proprietary control is to be obtained, there should be an independent or disinterested auditor over the system who is not responsible to, or controlled by these corporate agents. When it is reflected that the welfare of the nation is so largely involved in the integrity of corporate agents, much force is given to the argument.

*Independent Audit of Corporations as a Means of Control.*

Proceeding from the assumption that the government should provide for the means whereby corporate integrity may be established, two systems of independent audit have been evolved: (1) what may be styled the Continental system, and (2) the English system. These two systems have grown out of two distinct forms of political organization—the one arbitrary and bureaucratic, the other representative and democratic. Under the German, French or Russian system the government exercises a rigid inspection, and conducts the audit of corporations through which the public looks for protection. The success of such a method depends for its honesty and efficiency, in the first place, on the government itself being free from political or private influence, and, in the second place, on having within it the highest and best of professional intelligence. Thus, in Germany, for example, it is in the service of the government that are found the best engineers, the best financiers, the best lawyers, the best accountants. Again in Russia, the government being highly bureaucratic undertakes the paternalistic responsibility for the protection of private interests represented in the corporation; it does this through inspection and audit as a means of determining whether or not the officers and agents of the corporation have performed their responsibilities with fidelity and efficiency.

In England, the governing ideal is one of determining by public inspection and control whether or not the corporation has complied with the charter provisions, making it a condition precedent that the

corporation shall provide for itself an independent auditor, holding him (as the appointee of the stockholders or, in default of election at a regular meeting, as the appointee of the government for the stockholders) responsible for the accuracy of statements made which would reflect the fidelity or efficiency of corporate agents. To quote from "The Companies Act":

"Every company shall, at each annual meeting, appoint an auditor or auditors to hold office until the next annual general meeting.

"If an appointment of auditors is not made at an annual general meeting, the Board of Trade may, on the application of any member of the company, appoint an auditor of the company for the current year, fix the remuneration to be paid to him by the company for his service.

"A director or officer of the company shall not be capable of being appointed auditor of the company. . . .

"Every auditor of the company shall have a right of access, at all times, to the books, accounts and vouchers of the company, and shall be entitled to require from directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors, and the auditors shall sign a certificate at the foot of the balance sheet, stating whether or not all of their requirements as auditors have been complied with, and shall make a report to the stockholders on the accounts examined by them, and on every balance sheet laid before the company in general meeting their tenure of office; and in every such report shall state whether or not, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs, as shown by the books of the company; and such report shall be read before the company in general meeting.

"If any person, in any return, report certificate, balance sheet, or other document required by or for the purpose of this act, wilfully makes a statement false in any material particular, knowing it to be false, he shall be guilty of a misdemeanor, and shall be liable, on conviction, and on indictment, to imprisonment for a term not exceeding two years, with or without hard labor, and on summary conviction to imprisonment for a term not exceeding four months, with or without hard labor; and in either case to a fine in lieu of, or in addition to such imprisonment aforesaid."

When we reflect on the efforts at corporate regulation through public examination and on the failure of attempts made in this country to regulate the affairs of corporations through public examination, we may well question the propriety, as has England, of relying on bureaucratic methods for the protection of private interests, especially when these private interests are in a much stronger position to bring evidences of irregularity before the courts and enforce their

rights. The English system is one which places on the stockholders themselves (the proprietors of the corporation) the duty of providing the means of effective control—one which places on the joint proprietors of the corporation (the stockholders) the duty of appointing an independent auditor for the critical inspection or examination of the system installed and operated by the officers of the company. It is as necessary as is the appointment of any other officer in default of which a department of the government may assign an independent auditor to duty. That the officer may know whether the report of the employee is to be relied on, that the director may have a true record of results from the officer in charge, and that the stockholder may have before him a proper basis for estimate of integrity and ability of the several forms of corporate trustees and agents, the law requires that a corporation before it shall begin business shall choose, among other officers, an independent auditor who shall be in no way interested in the business, who shall certify to the correctness of reports, and who shall become responsible, both civilly and criminally, for the truth of the statements made over his certificate. This is not only a legal recognition of the importance of the audit to effective administrative control, but it is also a recognition of the duty of government to provide the conditions most favorable to success in the administration of an institution created in the interest of public welfare and dependent on trustees for its operation. It is a provision which requires the establishment of conditions necessary to an intelligent knowledge of affairs. It protects the corporation by permitting it to choose its own auditor. It protects the public and insures to it the highest social return by putting into the hands of the corporate authorities the means whereby the institution may attain the best corporate result. In the English system is found the best method for the administrative control of corporations that has been devised. True to the purposes of its enactment "The Companies Act" of England has most effectively regulated the corporations coming under its jurisdiction without submitting the companies themselves to prying inquisition and to the blackmailing possibilities of corrupt and inefficient officials.



## FEDERAL SUPERVISION AND REGULATION OF INSURANCE

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The agitation for the federal supervision and regulation of the insurance business must be viewed as marking a step in that gradual extension of federal control over industry and commerce which is asserting itself more and more with the increasing intimacy of commercial relations irrespective of state lines, and which is bound to continue until ultimately every important commercial interest whose practice is national in scope shall have been brought within the reach of federal law. Beginning as a local business, insurance has developed into a colossal institution, national and international in scope, and involving, as the President stated in his annual message to Congress, "a multitude of transactions among the people of the different states and between American companies and foreign governments." Into this important field of business, always regarded heretofore as within the control of the several states alone, it is now proposed to extend the power of the national government, and to such an extent that the authority of the states, although not completely eliminated, will become merely incidental.

Certainly this is a most radical change in view of the vastness of the interests involved. According to recent estimates,<sup>1</sup> it appears that, even excluding the business of the large number of fraternal beneficiary associations and local mutual fire companies, the amount of insurance in force in the United States aggregates \$50,000,000,000, while the assets of the companies have accumulated to the gigantic sum of \$3,000,000,000. Each year, it is estimated, that the people of the United States, approximately 20,000,000 of whom are directly interested in insurance as policyholders, pay \$1,000,000,000 in pre-

<sup>1</sup> Majority Report of the Committee on Insurance Law presented at the meeting of the American Bar Association, August 24, 1905.

miums to insurance companies, and receive approximately \$800,000,000 in return. The magnitude and importance of the business as indicated by these figures can scarcely be comprehended, and, being in the main a business of trust, the necessity for strict government supervision must be apparent. Indeed, the supervision of insurance by the government is to-day regarded as an absolute necessity by every authority on the subject, and is considered even more essential than in the case of banks. Insurance contracts, especially in life insurance, may run for years before maturing, the possibility always presenting itself of a company promptly paying its current claims, and yet being hopelessly insolvent as regards its future obligations. Moreover, it is practically impossible for the individual to determine for himself the financial standing of the company into whose care he has entrusted the protection of himself and family, into whose coffers he has paid his premiums for years, and upon whose ability to pay when the time comes he implicitly relies. The only way to determine the solvency of an insurance company is to calculate the present worth of its future obligations, and to compare this and the accrued liabilities with the available assets. This is a task beyond the power of individuals, many of whom have little information about insurance except the name of the company whose policy they hold. It is a task which can be adequately undertaken only by the government; but, while there is a consensus of opinion regarding the necessity of government supervision, the question as to whether the supervising authority ought to be the nation or the several states has been a disputed one for over forty years, and, as we shall see, is still far from settlement.

### *Historical Review of the Subject.<sup>2</sup>*

The question of national versus state regulation of insurance may be said to have had its origin in the passage of the National Banking Act of 1864. Although applying only to banks this act suggested the possibility of extending federal control to the insurance business. In the very next year Congress was memorialized by certain companies to free them from many of the vexatious burdens connected with state supervision. It was proposed in the

<sup>2</sup> For a detailed account of the history of this subject see John F. Dryden's "An Address on the Regulation of Insurance by Congress," delivered at a meeting of the Boston Life Underwriters' Association, November 22, 1904.

memorial that Congress should pass a national incorporation act which would enable insurance companies, like national banks, to become federal institutions. A bill to this effect was introduced in the Senate in 1868, but met with the fate that awaits any measure which attempts to take away the constitutional right of the several states to create corporations engaged in interstate commerce. But while this bill received little support, it is important to note that at this early date, when insurance was much more in the nature of a local institution than now, national supervision, nevertheless, claimed among its supporters some of the most influential men connected with the insurance business. Mr. Elizur Wright, for example, often called the father of state insurance supervision, upheld federal control most vigorously upon the ground that it would greatly simplify matters and be much more economical than state regulation; that it would protect the policyholders equally well, if not better; and that insurance was, by its very nature, a national interest and better adapted to federal than local control.

In the same year that the bill providing for the national incorporation of insurance companies was introduced, there occurred another event which completely changed the status of the problem of national supervision, and which has been inseparably connected with the discussion of the subject from that date to this. This new factor was the famous case of *Paul vs. Virginia*, decided by the United States Supreme Court in 1868, and confirmed in later decisions, according to which the issuance of a policy of insurance was declared not a transaction of commerce and therefore not subject to federal control. Although this case, as well as those that followed, did not bear directly on the point at issue, the opponents of national supervision have always assumed that in view of these decisions, the Supreme Court would declare unconstitutional any act seeking to deprive the states of their present right to supervise that part of the insurance business which is interstate in character.

The unfavorable decision of *Paul vs. Virginia* and the defeat of the bill of 1868 did not, however, crush the movement for federal regulation. For the next twenty-five years its advocates waged an educational campaign which resulted, at least, in the development of a most extensive literature on the subject. Finally, in 1892, things seemed ready for another attempt at congressional legislation. In that year Mr. John N. Pattison, president of the Union Central Life

Insurance Company, introduced a bill providing for a system of national regulation of insurance companies engaged in interstate business. Such companies were to report to a National Bureau of Insurance, and were thereafter to be exempt from all other requirements except those which Congress or the states from which they had secured their charters might see fit to impose. Owing, however, to its being weighted down with too many provisions of detail, the bill invoked sufficient opposition to prevent its becoming a law. In 1897 the matter once more came before Congress in the form of the "Platt Bill," modelled closely after the "Pattison Bill" of 1892, but again, owing largely to the pressure of other business connected with the Spanish-American War, the bill failed to secure favorable action.

The next important step in the movement for federal supervision was the establishment of the new Department of Commerce and Labor on February 14, 1903. This department was authorized, through the Bureau of Corporations, "to gather, compile, publish and supply useful information concerning such corporations doing business within the limits of the United States, as shall engage in interstate commerce or in commerce between the United States and any foreign country, *including corporations engaged in insurance.*" While not of far-reaching importance, this act, nevertheless, meant an advance, since it marks the first successful attempt on the part of the federal government to recognize insurance as a business which demands national and not merely local attention. Then on December 8, 1904, followed President Roosevelt's message to Congress in which he declared insurance to be a business which "vitally affects the great mass of the people of the United States and is national and not local in application," and in which he urged that "Congress carefully consider whether the power of the Bureau of Corporations cannot constitutionally be extended to cover interstate transactions in insurance." Following this expression of Executive approval came the bill of December 12, 1904, introduced in the House by Mr. Edward Morrell, but which was referred to the Committee on Interstate and Foreign Commerce. Lastly, we have the bill introduced in the Senate by Mr. John F. Dryden, president of the Prudential Insurance Company of America. This bill marks the latest attempt to secure national supervision through congressional action, and represents better than all former bills the present-day requirements of such legislation.

Briefly summarized, the bill introduced by Senator Dryden provided for an official in the Bureau of Corporations called the Superintendent of Insurance. This official was to be appointed by the President and placed in charge of a bureau called the Division of Insurance, and was to be assisted by an official known as the National Actuary. Policies of insurance were deemed by the bill to be "articles of commerce and instrumentalities thereof," and the delivery of contracts of insurance or the transmission of premiums or other sums between the several states or between this nation and other nations were declared transactions in interstate or foreign commerce. Express provision was made, however, that "the provisions of this act shall not apply to any corporation transacting the business of insurance exclusively within one state, district or territory: and *provided further*, that this act shall have no application to any religious, charitable, benevolent or purely fraternal society or association." The superintendent of insurance was authorized to require reports in any form he might choose to prescribe from the various companies transacting an interstate or foreign insurance business, and might also examine the business of such companies whenever he saw fit. Every company was to file with the superintendent a certified copy of its charter and by-laws together with its last statement, and was also to make a deposit with the Treasurer of the United States, as a guarantee for the faithful performance of its contracts, United States bonds or other securities satisfactory to the superintendent to the amount of \$100,000, unless the superintendent would accept as satisfactory a similar deposit in the state where the company had secured its charter. After all these requirements had been complied with, the superintendent was to grant a license to the company authorizing it to transact such interstate or foreign business in any or all parts of the Union. Provision was also made that if a foreign nation should refuse American companies such a license or should subject them to rules and regulations different from those applying to companies having their origin in the said foreign country, then the superintendent was to refuse such a license to the companies of that country transacting or seeking to transact business here, and was to subject them to the same rules and regulations applied by the foreign country against American companies.

Although containing many admirable provisions, the bill, as outlined, was introduced too late in the session to secure proper consid-

eration. There is every reason to believe, however, in view of the President's attitude on the question, and the increasing demand for such legislation, that the same or a similar bill will be introduced in the coming Congress. All previous attempts to secure federal control of interstate insurance, it is true, have come to naught. But at the same time it cannot be denied that public sentiment is steadily growing in favor of federal supervision. To quote the Committee on Insurance Law of the American Bar Association: "No one has offered any substantial reason against federal supervision and it is advocated by the President of the United States, and many state insurance commissioners, and favored by leading insurance officials and numerous insurance journals. Besides these, the general press is in favor of any movement in the direction of greater corporate publicity, and the patrons of insurance—the people—favor federal supervision of the business as the national banks are supervised."<sup>3</sup>

*Arguments in Favor of National Supervision.*

But what are the reasons, it will be asked, which are thus moulding public sentiment in favor of national supervision? A full answer to this question is quite impossible for the present, since the arguments which have been advanced from time to time are exceedingly numerous. Briefly stated, the principal arguments are:

1. That national supervision will greatly lessen the unnecessarily large cost of supervising insurance companies by fifty-two separate state and territorial departments, and that by thus lessening the expense it will decrease the cost of insurance.
2. That it will obviate much of the burdensome and discriminatory taxation now imposed by the several states upon insurance companies of other states.
3. That it is the only means of remedying the present lack of uniformity in our state insurance laws; that it will be a step toward uniform regulation and supervision of insurance companies; and that it will afford relief from the many petty exactions imposed by the different state departments, as well as from the evils resulting from variations in the rulings of the several insurance commissioners.
4. That it will afford better protection to policyholders, and will result in the elimination of fraudulent insurance enterprises.

<sup>3</sup> Page 5 of the Report of the Committee on Insurance Law, presented at the meeting of the American Bar Association at Narragansett Pier, R. I., August 24, 1905.

5. That it will entitle any insurance company reporting to the national government to transact business in all parts of the Union, at the same time protecting that company against the retaliatory legislation of other states.

6. That foreign countries would regard with much more weight the certificates issued by a national department, and that the federal authorities would be in a much better position both to protect American companies transacting business abroad and to supervise the large number of foreign companies transacting business in the United States.

7. That centralized supervision by trained experts would enable the national government at small expense to provide for a much greater degree of publicity as regards this most important business than is possible at the present time. Information regarding the principles, operation and condition of the business could be disseminated throughout the country in clear and concise form as contrasted with the confusing, voluminous and often meaningless mass of statistics issued from time to time by many of the state insurance departments.

8. That insurance is both in theory and in practice a national and international business, and not a fit subject for state or local control.

Directing our attention to a more detailed examination of the above contentions, it would seem to require but little argument to show that state supervision and regulation has proved needlessly burdensome and expensive. Although an institution which does not create wealth, but merely equalizes misfortune and aims to protect the individual and the family against loss, insurance has, nevertheless, been subjected to a multitude of taxes and fees, until to-day it is estimated that the business contributes the enormous sum of between \$20,000,000 and \$25,000,000 annually to the treasuries of the various states. Nor does this enormous charge bear any direct relation to the service rendered by the states in the way of supervision. Instead, it appears from a recent compilation of data furnished by twenty-eight states, that, *exclusive of all taxation*, over \$5,000,000 more was collected by these states than was needed to defray the cost of supervision. In England for example, efforts are made to encourage a business so essential to the family and the state and so promotive of the community's interests as insur-

ance, by exempting a portion of every income if expended for that purpose. In the United States, however, despite the fact that insurance is itself a tax which in the end must fall upon the community, and that by protecting the family, encouraging thrift and supporting industry, it relieves the state from large expenditures which would otherwise have to be incurred, the various state legislatures have nevertheless vied with one another in reaching the funds of insurance companies through taxes and fees of every sort and description. In fact, the insurance departments of many states, since they accept without question the examinations made by a few of the more important states, have become nothing more than salary-earning and tax-collecting agencies. There can be no doubt that if federal control over interstate insurance can be constitutionally established, the large and unequal tax burden upon insurance companies can be largely removed, and existing taxes properly applied. Similarly the expenses of supervising the business through fifty-two separate departments can probably, as has been estimated, be reduced to one-tenth its present amount.

But quite as flagrant as the tax abuse and the large cost of supervising the business is the absolute lack of uniformity in our state insurance laws. If a compilation of these laws were attempted a most curious spectacle would be the result. It would be found that the fifty-two states and territories are all acting along independent lines and that each, as has been correctly said, possesses "its own schedule of taxes, fees, fines, penalties, obligations and prohibitions, and a retaliatory or reciprocal provision enabling it to meet the highest charges any other state may require of companies of other states."

In the field of taxation, for example, there is neither method nor uniformity of rate. Some states will tax premiums after allowing for losses and expenditures within the state, while others will tax gross premiums without any deduction, thus presenting the interesting anomaly of companies being taxed upon their losses and expenses. Again, in addition to the usual property tax, there is the large variety of fees imposed for the right to enter a state to transact business, for municipal licenses, for filing documents, or for licensing agents. Nothing perhaps more forcibly illustrates the unequal and unscientific character of state taxation with reference to the insurance business than the experience of the New York Life



Insurance Company some years ago. As regards twenty-five states where the insurance in force aggregated \$317,000,000 the taxes amounted to only \$23,000, while in the twenty-four other states and territories representing \$313,000,000 of insurance the company paid \$207,000 in taxes.<sup>4</sup>

In addition to the evils of unscientific and unequal taxation of insurance companies it is also important to remember that the state legislatures at each session enact a multitude of new laws, many of them detrimental to the interests of the public, certainly annoying to the companies, and frequently in direct conflict with the laws of other states. Especially in fire insurance have the evils of state legislation become clearly apparent. Despite the general introduction of a uniform fire policy in the United States, its provisions have given rise to a great diversity of judicial opinion in the several states, so that its provisions mean one thing in one state, another thing in a second state, and are prohibited in a third. At present nearly one-third of the states have anti-compact laws, nearly one-fourth prohibit the use of the co-insurance clause, nearly one-half have enacted valued policy laws, while nearly three-fourths possess retaliatory enactments—all of which legislation can only be characterized as opposed to the underlying principles of insurance, and detrimental to the best interests of the public. Other states, again, seek to prohibit the company from applying for the removal of an action from a state to a federal court on pain of having its license revoked. Then there are the evils resulting from the different rulings and demands of the insurance commissioners of the same state and of the various states. Finally, there is the right, frequently exercised and leading to duplicate and uncalled for examinations, of the various insurance commissioners to examine all companies transacting business in their state whenever they see fit and at the company's expense.

Examples like these might be greatly multiplied, if space permitted, to show the evils of the present system. Suffice it to say that many insurance commissioners are fully aware of these evils, and have not hesitated to declare their views in favor of a change. Even a supporter of state supervision like Mr. S. H. Wolfe, recently expressed his dissatisfaction with the existing system of insurance laws in the following words: "Each state has an insur-

<sup>4</sup> Fricke's text book on Insurance page 14.

ance code of its own, and the difficulties and annoyances which insurance companies experience in trying to comply with fifty different sets of laws may well be imagined. There is a crying need for uniformity in this matter, and for a radical change in the laws of all the states. I know of no one state which possesses a code of insurance laws which may even be termed reasonably satisfactory. The insurance business has attained such proportions, and contributes so liberally through taxation to the income of the state, that it is entitled to more equitable and reasonable treatment than it is receiving at present."<sup>5</sup>

Whether this state of affairs can be changed under the present system may well be doubted. Certainly the difficulties of unifying and controlling the action of fifty or more legislatures and the same number of insurance departments with reference to the much misunderstood subject of insurance, may well be questioned in view of our past and present experience. It seems to be beyond reasonable doubt that if Congress could constitutionally create a national insurance department, possessed of the same powers now exercised by the fifty-two state and territorial departments, and place it in charge of competent men holding their positions by reason of special fitness rather than political affiliations, much of the heavy and discriminatory taxation, unnecessary expense, and lack of uniformity in legislation and supervision could be eliminated. There can be little doubt also that centralized supervision could be made much more effective than state supervision in extending publicity; in protecting American companies abroad, and supervising foreign companies transacting business in this country; in granting protection to the insurance companies of one state against the retaliatory acts of other states; and in affording additional protection to policyholders by using the strong arm of the federal government in stamping out fraudulent enterprises.

*Insurance in Theory and in Practice is an Interstate Business.*

Aside from the arguments just advanced in favor of national regulation, it is important to note that insurance is both in theory and in practice an interstate business. To derive the benefit of the

<sup>5</sup> See S. H. Wolfe's lecture on State Supervision of Insurance Companies in *THE ANNALS of the American Academy of Political and Social Science*, September, 1905, page 141.

law of average which fundamentally underlies the successful operation of all forms of insurance, it is essential that the business should be spread over as wide a field as possible. Hence it is that the development of the business has naturally and necessarily been national and international rather than local. In fact, the proportion of insurance written by American companies in the states where they were organized is exceedingly small, while the interstate business and the business transacted by American companies abroad and by foreign companies on American soil is suprisingly large. In life insurance, for example, it appears that in the case of twenty leading companies, transacting nearly nine-tenths of the total ordinary life insurance of the country, only 15.5 per cent. of the total amount of their outstanding policies is held in the home state, only 14.5 per cent. of the new policies are issued in the home state, and only 12.6 per cent. of the total premium income is collected there. Even in the case of the four largest companies in America, domiciled in the wealthy and thickly populated State of New York, considerably less than one-fifth of the total business is intrastate, while over four-fifths is interstate and international.

In the case of fire and marine insurance the situation is equally striking. The seventeen largest fire insurance companies of New York, with risks exceeding \$50,000,000 each and with a combined total of risks aggregating \$5,740,000,000, wrote only 25 per cent. of their business during 1903 in the home state, and received only 16.7 per cent. of their premium income from the intrastate business. In Pennsylvania the respective percentages for the same class of companies (with risks of \$1,636,000,000) were only 10.5 per cent. and 10 per cent.; while in the case of eighteen American companies belonging to the same class, but domiciled outside of New York and Pennsylvania, and carrying risks of \$5,520,000,000, the proportion of the new business written and the premiums received in the home state amounted to only 5.3 per cent. and 4.9 per cent. of the total. Likewise in the list of marine, casualty, surety and other forms of insurance, similar ratios will be found as regards the intrastate and interstate business. To this may be added the important fact that the large American life insurance companies transact a considerable portion of their business abroad, and that, on the other hand, a very large proportion of the fire and marine insurance of the country is

written by foreign companies. At the close of 1903 two companies alone (the Equitable and Mutual Life of New York) held 366,725 policies abroad, aggregating \$980,055,792 of insurance and representing for that year a premium income of \$42,027,980.<sup>8</sup> During the same year foreign fire insurance companies reporting to the State of New York received \$55,935,772 in premiums from their American business, or about 28 per cent. of the total premiums collected by all stock companies in the United States, and carried \$7,306,000,000 of risks, or 27 per cent. of the total. Likewise in marine insurance the American branches of the twenty leading foreign companies wrote \$3,723,000,000 of risks in 1903, or 54 per cent. of the total, and received nearly one-half of the total premiums collected. Indeed, in some sections like the Gulf States and the Pacific coast, approximately four-fifths of the total marine insurance written is controlled by foreign capital.

The following tables will show in greater detail the interstate and international character of the insurance business.

#### *Arguments Advanced Against National Supervision.*

Without attempting to disprove, but generally admitting the criticisms directed against the present system of state supervision, the opponents of federal control question the wisdom of enacting legislation to this effect, on one or more of the following grounds:

1. That national supervision would be an undue infringement upon state rights.
2. That the National Convention of Insurance Commissioners is composed of members who are educated to the work, and that it would be better policy to let these commissioners in general assembly continue to provide rules for the regulation and supervision of insurance, as they have been doing for over a quarter of a century.
3. That national supervision will increase the chances for fraud by placing too much power in the hands of a few individuals. The constantly changing character of the heads of the many state insurance departments is one of the most desirable features of the present system, since it renders collusion easy of detection.
4. That the supervision of all insurance companies in the United States, involving such enormous financial interests and embracing

<sup>8</sup> James M. Beck, *North American Review*, August, 1905, page 194.

## TABLES SHOWING THE INTERSTATE CHARACTER OF INSURANCE.

(For the year 1903.)

TABLE I.—ORDINARY LIFE INSURANCE.\*

NAME OF COMPANY.	Total amount of Policies (Designated in millions).	Percentage of Policies written in Home State.	Total amount of new Policies issued in 1903 (Designated in millions).	Percentage of New Policies written in Home State.	Total Premiums Received in 1903 (Designated in millions).	Percentage of Premiums Received in Home State.
Equitable Life Assurance Society, New York	\$1,409	.208	332	.216	58	.193
†Metropolitan Life Insurance Co., New York	282	.210	101	.189	46	.054
Mutual Life Insurance Co., New York	1,445	.148	215	.123	60	.133
New York Life Insurance Co., New York	1,745	.148	330	.124	73	.151
Provident Savings Life Insurance Co., N. Y.	105	.090	34	.069	3	.111
Ætna Life Insurance Co., Connecticut	233	.040	26	.035	9	.042
Connecticut Mutual Life Insurance Co., Conn.	166	.038	10	.040	5	.061
†Mutual Benefit Life Insurance Co. of N. J.	359†	.058	47	.056	12	.059
†Prudential Insurance Co. of America	388†	.12	102	.119	36	.038
Traveler's Life Insurance Co., Connecticut	133	.026	17	.023	4	.044
Union Central Life Insurance Co. of Ohio	107	.190	36	.132	7†	.229
†John Hancock Mutual Life Insur. Co., Mass.	103	.135	26	.132	12	.050
Massachusetts Mutual Life Insurance Co.	169	.107	24	.070	6	.123
Fidelity Mutual Life Ins. Co. of Philadelphia	100	.215	22	.241	3	.224
Penn Mutual Life Ins. Co. of Philadelphia	398	.262	70	.206	11	.242
Provident Life and Trust Co. of Philadelphia	159	.410	18	.341	6	.402
National Life Insurance Co. of Vermont	126	.053	21	.035	5	.055
New England Mutual, Mass.	145	.195	22	.156	5	.205
State Mutual, Mass.	101	.280	14	.188	3	.204
Northwestern Mutual of Wisconsin	662	.089	80	.063	26	.080
Totals	\$8,342	.154	1,552	.145	395	.126

\* To economize space, the figures beyond millions are omitted in the columns. They have, however, been included in the "totals."

† 1904 statistics. ‡ Industrial insurance not included.

TABLE II.—FIRE INSURANCE.\*

	Total Risks written or renewed in 1903 (Designated in millions).	Percentage of Total Risks written in Home State.	Premiums on Total Business written or re- newed in 1903 (Designated in thousands).	Percentage of Total Premiums received in Home State.
<i>New York Joint Stock Companies.</i>				
Agricultural Insurance Co. ....	162	.246	1,788	.197
Continental Insurance Co. ....	661	.229	6,818	.158
Dutchess Insurance Co. ....	53	.362	694	.302
German Alliance Insurance Co. ....	50	.334	541	.252
German-American Insurance Co. ....	757	.240	7,649	.15
Germania Fire Insurance Co. ....	280	.251	2,717	.165
Glens Falls Fire Insurance Co. ....	135	.214	1,679	.140
Globe and Rutgers Fire Insurance Co.	131	.179	2,015	.164
Greenwich Fire Insurance Co. ....	269	.44	2,457	.227
Hanover Fire Insurance Co. ....	435	.331	4,253	.331
Home Insurance Co. ....	1,169	.266	11,911	.167
Niagara Fire Insurance Co. ....	277	.223	3,353	.161
Phoenix Insurance Co. ....	571	.203	6,440	.108
Queen Insurance Co. of America ....	308	.139	3,983	.075
Rochester-German Insurance Co. ....	110	.103	1,477	.070
Westchester Fire Insurance Co. ....	241	.278	2,667	.192
Williamsburg City Fire Insurance Co.	126	.377	1,351	.234
Totals .....	5,740	.252	61,803	.167
<i>Pennsylvania Joint Stock Companies.</i>				
American Fire Insurance Co. ....	161	.151	2	.135
Fire Association of Philadelphia ....	403	.094	5	.085
Insurance Co. of North America ....	550	.096	6	.010
National Union Fire Insurance Co. ..	105	.132	1	.128
Penn Fire Insurance Co. ....	301	.108	3	.096
Spring Garden Insurance Co. ....	114	.086	1	.087
Totals .....	1,636	.105	20	.10
<i>Stock Companies of Other States.</i>				
Ætna-Hartford, Conn. ....	521	.030	7	.021
American Central Ins. Co. (Mo.) ....	200	.076	2	.084
American Insurance Co. (N. J.) ....	207	.093	2	.055
Citizens' Insurance Co. of Missouri ..	143	.055	2	.049
Connecticut Fire Insurance Co. ....	261	.020	3	.016
Firemen's Fund (California) ....	304	.088	4	.119
German Insurance Co. (Ill.) ....	261	.159	3	.143
Hartford Fire Insurance Co. (Conn.) ..	907	.012	12	.010
Milwaukee Mechanics Insurance Co. ..	137	.095	1	.092
National Fire Ins. Co. of Hartford. ....	486	.020	5	.015
New Hampshire Fire Insurance Co. ..	155	.104	1	.011
Northwestern Nat'l Insurance Co. of Milwaukee .....	155	.089	1	.088
Orient Insurance Co. (Conn.) ....	117	.042	1	.024
Phoenix Insurance Co. (Conn.) ....	484	.020	4	.020
Providence-Washington Ins. Co. ....	202	.033	2	.028
St. Paul Fire and Marine. ....	163	.123	2	.097
Springfield Fire and Marine Ins. Co. (Mass.) .....	361	.052	4	.044
Traders' Insurance Co. (Ill.) ....	151	.133	2	.130
Totals .....	5,220	.053	65	.049

\* To economize space, the figures beyond millions are omitted in the columns. They have, however been included in the "totals."

over a dozen kinds of insurance differing radically from one another in many respects, is well-nigh beyond the power of a single department.

5. That Congress is without constitutional power to establish a system of federal control.

To understand the real force of these contentions a few words of explanation are necessary. In the first place federal supervision does not contemplate the elimination of state supervision. It seeks only to regulate insurance transactions between the states, and proposes not to interfere with a state's constitutional right to supervise its own home companies. In other words, there is to be federal control over interstate insurance supplemented by state control over domestic companies. Secondly, it should be noted that the National Convention of Insurance Commissioners is only a voluntary body without legal existence. Despite its long career and the great amount of good which it has accomplished, the evils of state supervision are still so numerous and apparent as to preclude any hope for permanent and far-reaching reform so long as this reform must emanate from half a hundred independent sovereignties.

The next two objections to national supervision, namely, the increased opportunity for fraud and the difficulty of supervising such vast interests through a single department—if valid at all—should only serve to caution Congress to exercise the greatest care in providing for the proper organization and administration of a national system. Probably no factor is more largely responsible for present evils than the political character of the state insurance departments. In nearly every state of the Union this department, which above all others, owing to the character of the institution which it represents, should be kept out of politics, is regarded as a part of the state's political machinery to be filled every few years by men who have rendered political services, irrespective of what their qualifications for the office may be. If federal supervision is constitutionally possible, a splendid opportunity presents itself to lift this most beneficent of institutions out of the realm of politics and bring it under the salutary influence of trained officials who might continue to serve through administration after administration.

The last objection is by far the most important, and for years has proved the stumbling block in the way of federal regulation. To bring insurance within the reach of the federal government,

like the railway industry, it is necessary to show that insurance companies, like railroad companies, are transacting an interstate commerce business. And here we are told that the United States Supreme Court has repeatedly declared insurance not to be commerce. In fact, this objection was the only one offered against national supervision in the minority report submitted by Mr. W. R. Vance to the Committee on Insurance Law before the American Bar Association.<sup>7</sup> This minority report presents the whole contention in a nut-shell. "I feel myself compelled," writes Mr. Vance in this report, "to dissent from the conclusions reached by my associates of the committee on the single proposition that 'there is no constitutional obstacle in the way of federal regulation' of the business of insurance. If insurance is not interstate commerce, it is clear that the regulation and control of the business is beyond the power of the federal government. I am of opinion that the existing methods of regulating insurance business by the several states is most defective, since it is both inefficient in preventing wild-cat companies from engaging in the business and also needlessly expensive to those who in the last analysis bear the expenses incident to the business,—the policy-holders. I am also of opinion that federal supervision, if it were possible under our constitution, would probably remedy many of the evils existing under the present system of regulation, but I do not see that such supervision by the federal government is possible without a constitutional amendment expressly giving it the required power. . . . The proper conclusion seems to be that, however much we may desire to believe that insurance is interstate commerce and therefore susceptible of federal supervision, the matter is concluded by the carefully considered judgment of the Supreme Court of the United States against which, despite frequent assaults by its ablest opponents during a period of nearly forty years, not a single dissenting voice has been raised from the bench. Any act of Congress, with a view to such supervision, would necessarily be unconstitutional and void, and the time and money that would be required to secure its passage could much more profitably be expended in endeavoring to secure some uniform action on the part of the states based upon a more intelligent understanding of the business and of the real interests of the insuring public."

<sup>7</sup> Meeting at Narragansett Pier, R. I., August 24, 1905.



*The Constitutionality of National Supervision.*

The constitutional objection in the way of federal regulation consists of the right of the several states to exercise all those supervisory powers not delegated to the United States by the Federal Constitution. Under the Ninth and Tenth amendments, it is provided respectively that: "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people"; and "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people." In view of these reservations, federal supervision of insurance is clearly impossible unless it is one of the powers delegated to the United States by the Constitution, and the clause which has been generally agreed upon as delegating such power—if it is delegated at all by the Constitution—is Section 8 of Article I, namely: "The Congress shall have the power to regulate commerce with foreign nations, and among the several states, and with the Indian tribes." To utilize this "commerce clause" for the desired purpose, it is necessary to show that insurance is interstate commerce. Unfortunately, however, for the advocates of national supervision the United States Supreme Court has handed down a long series of decisions denying that insurance is commerce.<sup>8</sup> In the famous case of *Paul vs. Virginia*, decided in 1868, the court held that fire insurance was not commerce; then in the case of *Hooper vs. California*, decided in 1894, marine insurance was declared not to be commerce; finally in the case of the *New York Life Insurance Company vs. Cravens*, decided in 1899, life insurance was also held not to be commerce.

In the case of *Paul vs. Virginia*, where fire insurance was the subject involved, Justice Field delivered the opinion to the effect that, "Issuing a policy of insurance is not a transaction of commerce. The policies are simple contracts of indemnity against loss by fire, entered into between the corporations and the insured, for a consideration, paid by the latter. These contracts are not articles of commerce in any proper meaning of the word. They are not subjects of trade and barter offered in the market as something having

<sup>8</sup> Among the principal cases are *Paul vs. Virginia*, 8 Wall. 168 (1868); *Liverpool Insurance Co. vs. Mass.*, 10 Wall. 566 (1870); *Hooper vs. California*, 155 U. S. 648 (1894); *New York Life Insurance Co. vs. Cravens*, 178 U. S. 389 (1899); *Nutting vs. Mass.* 183 U. S. 553 (1901).

an existence and value independent of the parties to them. They are not commodities to be shipped or forwarded from one state to another, and then put up for sale. They are like other personal contracts between parties which are completed by their signature and the transfer of the consideration. Such contracts are not interstate transactions, though the parties may be domiciled in different states. The policies do not take effect—are not executed contracts—until delivered by the agent in Virginia. They are, then, local transactions and are governed by the local law. They do not constitute a part of the commerce between the states any more than a contract for the purchase and sale of goods in Virginia by a citizen of New York, whilst in Virginia would constitute a portion of such commerce.” In the case of *Hooper vs. California*, in 1894, the court reiterated its opinion in the following words: “The business of insurance is not commerce. The contract of insurance is not an instrumentality of commerce. The making of such a contract is a mere incident of commercial intercourse, and in this respect there is no difference whatever between insurance against fire and insurance against the perils of the sea.” Even as late as 1901, in the case of *Nutting vs. Massachusetts*, the Supreme Court again confirmed its former decisions, with the words: “A state has the undoubted power to prohibit foreign insurance companies from making contracts of insurance, marine or other, within its limits, except upon such conditions as the state may prescribe, not interfering with interstate commerce. A contract of marine insurance is not an instrumentality of commerce, but a mere incident of commercial intercourse.”

*Contending Views as to the Applicability of the “Insurance Cases”  
to the Question at Issue.*

Notwithstanding the numerous decisions in which the Supreme Court has denied to insurance the character of commerce, and which many regard as a final expression of the Court's opinion, there are those who maintain that these cases must not be considered as conclusive against national supervision. In the first place, they contend that none of the insurance cases involved the constitutionality of a federal law. In nearly all the cases the principal question at issue was the validity of state statutes prescribing certain terms, compli-

ance with which was necessary on the part of foreign corporations before being permitted to transact business in those states; and the statutes were upheld as a legitimate exercise of the police powers. The decision in *Paul vs. Virginia* that insurance is not commerce, they regard as mere dictum and as not having been essential for the judgment rendered in that case. At the time the accepted doctrine was that the states, in the absence of congressional legislation, had the power to regulate the business of foreign corporations within their borders. Since Congress had not acted, the states were entitled to do so, and even if the court had declared insurance to be commerce, the judgment in *Paul vs. Virginia* must have been the same. In other words, this case, and those which followed, were based upon state and not federal statutes. Until Congress enacts a law providing for the regulation of insurance companies, the constitutionality of federal supervision must necessarily be viewed as an unsettled question, and no more weight can be given to the opinions expressed in the insurance cases on the nature of the insurance business than is usually attached to judicial opinions on matters that do not necessarily enter into the case under consideration.

Furthermore, the advocates of national supervision point out that the Constitution must be regarded as a growth, and as having undergone a constant evolution. Of no clause in the Constitution is this so true as the so-called commerce clause. From time to time the powers delegated to the federal government under this clause have been expanded so as to meet the new requirements of industrial and commercial progress. While the wording of the clause has not been changed, its operation has been extended to a vastly larger field than formerly, until to-day national control over interstate commerce means an entirely different thing than it meant to our forefathers, and, in view of its gradual extension to new modes of commerce, will mean something entirely different in the future than it does to-day.

There are reasons, the advocates of national supervision assert, which may lead us to believe that the Supreme Court has already in large measure retracted from the position taken in the case of *Paul vs. Virginia*. It is pointed out<sup>9</sup> that as early as 1877, in the case

<sup>9</sup> Report of the Committee on Insurance Law before the American Bar Association August 24, 1905. Page 8.

of the Pensacola Telegraph Company *vs.* Western Union Telegraph Company (96 U. S. 1), the Supreme Court decided that a New York corporation had the right to construct and operate a line in certain parts of Florida, despite the fact that the Pensacola Telegraph Company had received from the legislature of Florida the sole right to erect and operate a line within said parts of Florida's territory. The court said: "We are aware that in *Paul vs. Virginia* this court decided that a state might exclude a corporation of another state from its jurisdiction, and that corporations are not within the clause of the Constitution which declares that 'the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.' . . . Upon principles of comity, corporations of one state are permitted to do business in another unless it conflicts with the law or unjustly interferes with the rights of the citizens of the state into which they come. Under such circumstances, no citizen of a state can enjoin a foreign corporation from pursuing its business."<sup>10</sup>

More recently we have the decision, in February, 1903, in the so-called "lottery cases," which involved the constitutionality of a federal statute forbidding interstate carriers to transfer lottery tickets between states. It was argued that since an insurance policy had been declared not an article of commerce, a lottery ticket would likewise not come within this category. The Supreme Court, however, by a vote of five to four, upheld the statute and declared a lottery ticket to be an article of commerce. The force of this decision as weakening the authority of *Paul vs. Virginia* has been clearly expressed by Mr. James M. Beck in the following statement: "Apparently, there was no logical distinction between the two; for, if the lottery ticket, forbidden by the police laws of nearly every state, which only promises to pay upon the remote contingency of a successful drawing, can be an article of commerce, then a contract of insurance, which promises to pay upon a contingency which must surely happen, must *a fortiori* be a subject of commerce. . . . It is significant, although the opinion of the minority justices referred at length to *Paul vs. Virginia*, and subsequent cases as inconsistent with the de-

<sup>10</sup> This decision was dissented from by Mr. Justice Field, who upheld the decision of *Paul vs. Virginia*, and urged the necessity of leaving with the states the power to control corporations transacting business within their borders. He argued that "By the decision now rendered, congressional legislation can take this control from the state, and even thrust within its borders corporations from other states in no way responsible to it."

cision of the court, the opinion of the majority made no attempt to suggest a logical distinction between a policy of insurance and a lottery ticket; and it may be fairly contended, therefore, until the Supreme Court declares otherwise, that the lottery cases have overruled *Paul vs. Virginia*, at least to the extent that the former case held that a policy of insurance could not be a subject of commerce."<sup>11</sup>

The supporters of national supervision, however, do not confine themselves to showing that the authority of *Paul vs. Virginia* has been impaired by subsequent decisions, but also contend that in neither this nor in any of the other cases is there any record to show that there was any thorough consideration of the facts regarding the character and uses of insurance or the operation of the business. Such a consideration, they say, will show that instead of being a mere incident of commerce as the court has decided, insurance is unquestionably commerce itself or an inseparable element of commerce, as that term is commonly used; moreover, that the court in deciding *Paul vs. Virginia* and subsequent cases, labored under a misconception of the facts governing the operation of the insurance business.

A closer examination will show that this contention is well substantiated by facts. It requires little argument to prove that insurance fundamentally underlies all business, and that it is inseparably interwoven with our whole commercial life. Marine insurance, for example, is considered an indispensable necessity by all oversea merchants, and in one form or another has become an integral part of nearly every maritime transaction. It ranks in importance with any other active force in influencing and controlling the employment of shipping. It serves a most useful purpose in promoting commercial transactions by vastly extending the use of credit. It is just as much an instrumentality of commerce and almost as essential to international and coastwise trade as the vessel itself.

Similarly in the case of fire insurance, the usefulness of the business to trade and industry can scarcely be comprehended. Without it the business man could obtain no credit, and would be compelled to limit his commercial transactions to the extent of his capital. With fire insurance as collateral, however, he may secure credit from the wholesale merchant or the banker to four or five times the extent of his capital, and do so at cash prices. An American cargo, for exam-

<sup>11</sup> *North American Review*, August, 1905, page 199.

ple, shipped to Europe may be balanced by a European cargo shipped to the Orient, which in turn is balanced by an Oriental cargo shipped to America—a series of transactions based solely on credit, and made possible only because this credit is guaranteed by fire and marine insurance. Illustrations of this nature might be indefinitely multiplied to show how intimately commerce and the various forms of property insurance are related. Suffice it to say that the two cannot be separated. As collateral security, the value of insurance to commerce is beyond all calculation, as may be judged from the fact that 97 per cent. of the world's commerce is estimated to be transacted on credit, and only 3 per cent. on a cash basis. As Mr. A. C. Campbell has so admirably stated:<sup>12</sup> "No statistics would be possible to show the extent of the fire insurance business as now practised, for those figures would need to be as large as those of all trade. There is practically no combustible property that is not insured against fire; every car of grain, every scow-load of lumber, every bale of cotton, every package of manufactured goods, from the time it assumes merchantable shape until it is entirely consumed, is thus conditionally the property of insurers. Without such a system, modern commerce would be impossible. The fire insurance policy, or the assignment of certain interest in it, is attached to the mortgage given by the farmer for money to build his new barn; the fire insurance policy is as necessary to the banker as is the warehouse or shipping receipt on the strength of which he advances funds for that magic of commerce, 'moving the crop'; fire insurance is as important to the manufacturer as is the foundation under his factory; fire insurance is, in fact, the very backbone of that part of our social life which has to do with making, moving and keeping material things."

Quite as important as fire and marine insurance is the third great branch of indemnity, namely, life insurance. Reaching out among the millions of citizens it accumulates their small savings into gigantic funds aggregating hundreds of millions of dollars to be loaned in turn or used as productive capital. In many respects life insurance ranks with the banking business as a financial institution. Being large dealers in mortgages and securities, life insurance companies exert a powerful influence upon the money market; and while not issuing notes for circulation like banks, they issue bonds and

<sup>12</sup> A. C. Campbell in "Insurance and Crime," page 131.

policies which partake of the same nature. Besides serving as a means of protection to the family or to business enterprises, life insurance policies may be used as collateral, because through their possession the holder can secure credit from his banker, his merchant or the insurance company.

In general, then, insurance in its various forms turns out to be the foundation of credit, and the protector of all commerce, rather than the mere incident of commerce that the Supreme Court has declared it to be. But in view of some of the other transactions which have been declared subjects of commerce by the Supreme Court, it would seem that insurance policies must likewise belong to this category. If telegraph messages, which are neither "subjects of trade offered in the market as something having an existence or value independent of the parties to them" or "commodities to be shipped or forwarded from one state to another and then put up for sale," are articles of commerce, it is difficult to see why insurance policies should not belong to the same class. If a lottery ticket, depending on a doubtful contingency and failing to meet with Justice Field's definition of an article of commerce, as laid down in *Paul vs. Virginia*, is commerce, then it seems that a life insurance contract whose fulfillment depends upon a contingency which is certain to happen, must also be a subject of commerce. But even leaving such analogies out of account, Justice Field's opinion that contracts of insurance "do not take effect—are not executed contracts—until delivered by the agent" and are therefore local transactions, does not accord with actual facts, and unduly emphasizes the importance of the delivery of the contract in an insurance transaction. As a matter of fact, in thousands of cases, insurance policies take effect the day the application is made or when the policy is signed by the policy writer at the home office, that is to say, before the policy is delivered. But it is not so much the delivery of the paper which represents the contract as the purpose contemplated in the contract which should claim our special attention. Insurance must be regarded not as the mere delivery of a policy, but as the exchange of an economic good, intangible, it is true, yet real, for a definite consideration; and here perhaps lies the difficulty in seeing that insurance at bottom is an economic good, resembling tangible commodities which are bought and sold. Insurance companies send their agents from state to state and from coun-

try to country to sell to the public for a stipulated price a certain utility, a right to be indemnified upon the happening of a contingency, or in other words, an economic good. If insurance were not a utility of actual value, there would not be so many millions paying their hard cash in order to obtain it. As has been aptly said:<sup>13</sup> "A contract to exchange a ton of coal for money may not be commerce, but the actual exchange is; and, by parity of reasoning, a contract to pay a sum of money for indemnity, in consideration of an ultimate return, whether certain or contingent, of another sum of money, may not be commerce, but the actual exchange of reciprocal pecuniary benefits would seem to be as much commerce as the exchange of any other commodity."

From whatever point of view we may consider the nature of insurance, it appears, therefore, to be not only an integral and indispensable element of commerce but a subject of commerce itself, as we use that term in everyday language. It is just as much a part of modern commerce as the telegraph, the telephone or transportation itself. Indeed, it is regarded as a part of commerce by nearly all the great nations, for in England the supervision of insurance is entrusted to the Board of Trade; in Austria to the Tribunal of Commerce; and in France to the Minister of Commerce. Even the Congress of the United States has declared insurance corporations as coming under the term "commerce" by legislating that the Department of Commerce and Labor should gather and distribute information regarding corporations engaged in interstate commerce, *including corporations engaged in insurance*.

### *Conclusion.*

From the foregoing review it must appear that the mass of evidence warrants a change from a decentralized to a centralized system of supervision. Indeed, the only important obstacle in the way of such a change is legal and not economic. By its very nature insurance is a national interest, and nearly all students of the subject are agreed as to the advantages of having the business controlled by one central supervising authority. There can be little doubt that a national insurance department, if properly constituted and wisely administered, can greatly reduce the present

<sup>13</sup> James M. Beck in the *North American Review*, August, 1905, page 201.



expense of supervision, and can do much towards equalizing and lessening the present burden of taxation. There can be little doubt, too, that it is the only practicable means of creating uniformity in our insurance law and in the methods of supervising the companies. It can be made to afford better protection to policyholders than the present system, at the same time protecting the companies from arbitrary, restrictive and retaliatory legislation on the part of the several states. Moreover, as is generally admitted, it could greatly extend the principle of publicity, and could certainly be made to render more effective than the present system the supervision of that large part of the insurance business which is international.

With the single exception of the United States every nation of any importance has recognized the necessity of centralizing control over insurance. The German Imperial Statute of May 12, 1901, placed the supervision of private insurance companies, heretofore regulated by the several states, in charge of an imperial supervising office. The constitution of 1898 of the Commonwealth of Australia likewise vests the control over interstate insurance in the central government; while in France, after a thorough consideration of the subject in 1903, the insurance business was placed under the control of the Ministry of Commerce. Only in the United States is there a decentralized system of fifty-two separate departments regulating and supervising a business which might just as well be taken care of by a single department. And the only important argument which has been advanced against a change ever since 1863 and which is being used as effectively now as ever, is the doubtful constitutionality of any measure which seeks to nationalize insurance with reference to its control. But, as stated, the question of the constitutionality of such a measure has never yet been squarely presented to the United States Supreme Court for decision, because Congress has never yet legislated to that effect. In all the so-called "insurance cases" upon which the argument of unconstitutionality is based, some other immediate issue was involved. The constitutionality of a law providing for national supervision of insurance is, therefore, an untried and unsettled question, though numerous facts would seem to justify a hope that the Supreme Court would pass favorably upon such a measure. Public policy would seem, therefore, to require that Congress should at the earliest possible moment take the initiative by enacting some measure, like the Dryden Bill,

thus giving occasion for a test case. Then, if the Supreme Court refuses to reverse its former decisions and Congress is left without constitutional power to establish a law providing for national supervision, the question arises whether the evils of the present system and the advantages of the proposed system, in view of the importance and magnitude of the interests involved, would not justify the adoption of a constitutional amendment.

But in case national supervision of insurance should ever become a reality, it cannot be too strongly emphasized that the nature of the business and the interests of both insured and insurers demand that such supervision should be taken entirely out of politics, and should be entrusted to men who are chosen for their special fitness rather than party allegiance. Few departments of government involve greater responsibility and come into closer contact with the interests of so many millions of people as the insurance departments. Insurance is a technical business which requires that those who look after its financial condition, prescribe its investments, recommend legislation and otherwise regulate the business, should be men with special training and with long experience. Yet under the present system of state supervision this all-important requirement has been largely disregarded and insurance departments have in most cases assumed a distinctly political character. "It will be seen," writes Mr. S. H. Wolfe in a recent article,<sup>14</sup> "that the supervising officer is part of the political machinery of the state, and the besetting sin of American civic government—the political pull—is responsible for whatever lack of efficiency there may be in this important branch of the state government. It is an unfortunate fact that this office, which comes into such close and vital relationship with the interests of so large a number of citizens should be handed out as a reward for political services. It must not be understood that this is a sweeping condemnation of all insurance departments or a denunciation of every insurance commissioner, for some have appreciated the importance of their duties, have cast off all political yokes and affiliations, and have succeeded in reforming serious evils which existed in the business. It is merely a criticism of a system which takes men with no technical education, places them in charge of one of the most important bureaus, and then, without regard to their honesty, efficiency or record, sweeps them out of office and hands their posi-

<sup>14</sup> *North American Review*, July, 1905.

tions to some new, inexperienced man as a reward for political services rendered at the last election. This condition of affairs is to be found in nearly every state in this country. . . . To expect a man trained in other walks of life to develop suddenly into a competent supervisor, is to assume the impossible. Life insurance is a huge structure and its erection must be watched by competent eyes."

Simply to substitute a national department for a large number of state departments without eliminating the present political character of the office, may only be laying the basis for a repetition of many evils which it is now sought to overcome. Centralized supervision, if properly organized and applied, makes possible certain reforms which cannot be realized by attempting to unify the action of half a hundred independent and often hostile legislatures and insurance departments. Quite as important as centralization in supervision is the necessity of making certain that the supervising officers are strong, efficient and politically independent. Only by combining centralization of supervision with these other factors can real and lasting reform be accomplished.

## THE DISTRIBUTION OF SURPLUS IN LIFE INSURANCE: A PROBLEM IN SUPERVISION

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Madison, Wisconsin.

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The scandals that have been brought to light recently in the insurance field, have drawn especial attention to the question of government supervision. What are the duties of a state in matters of insurance, and how can those duties be most efficiently exercised? How far should the government, state or national, go in the matter of restricting or regulating the right of contract on the part of the public, and how far should the government go in regulating or restricting the operations of the companies? These are questions that both policyholders and those charged with the duties of supervision may well ponder over.

We cannot in a brief paper of this kind, discuss the entire question of supervision in its manifold duties and forms, but will direct our attention to the question of distribution of surplus, and the solution that seems feasible and efficient. In a discussion of this question, we naturally turn to the controversy between Zeno M. Host, the Wisconsin commissioner, and the Equitable Life Assurance Society of New York. The Equitable was organized in 1859 by Mr. Henry B. Hyde, then a young man twenty-five years of age and employed as a clerk in the office of the Mutual Life. He made his plans known to the president of that company and asked for his opinion as to its feasibility. This aroused the ire of the venerable president, for it was rank treason in his mind for a subordinate in that office to even think of starting a competing company. Mr. Hyde was threatened with immediate dismissal if he persisted in his plans. But, without going further into details, the Equitable was organized and located in the same building one story above the office of the Mutual Life. The new company was to be "mutual with capital stock." This is, strictly speaking, a contradiction of

terms, for there can be no stock in a purely mutual company. The plan was to have \$100,000 capital stock on which the stockholders were to receive 7 per cent. dividends; the remainder of the earnings was to be divided among the policyholders. This is known as the "mixed" company plan. The stockholders elected the directors and had virtually complete management of the company's affairs. A majority of the stock of the Equitable was until recently held by the Henry B. Hyde estate, which was thus given absolute power to choose the directors of the company and indirectly to manage the investment of the company's funds now exceeding four hundred millions.

The shares owned by Mr. Hyde were left by his will in the hands of trustees until his son, James H. Hyde, should become thirty years of age. The trustees were James W. Alexander, the president of the Equitable; James H. Hyde, first vice-president and heir, and William H. McIntyre, a trusted friend of the elder Hyde. These trustees had the power to vote a majority of the shares in the election of directors, but Mr. Hyde had a veto on the action of the other two, so that, although he could not compel absolutely the election of his choice he could compel the election of directors that were acceptable to him and would do his bidding. This is one of the bones of contention. Many leading authorities hold that the stock should be retired and the management of the company turned over to the policyholders, as has been done in several instances, notably the Phoenix Mutual and the Germania Life. The former retired the stock absolutely, while the latter retained the stock, but gave the policyholders the right to vote at the annual meetings. This is one of the things contended for by Mr. Host, and it is certainly in accord with good business principles. But it concerns only indirectly the question at hand, for deferred dividend policies have been issued by purely mutual companies as well as by stock and mixed companies.

In its competition with other companies for business the Equitable began early to specialize in deferred dividend contracts, about 85 per cent. of its business being of this class, *i. e.*, with distribution periods exceeding five years, most of them being fifteen or twenty years. The legality of this kind of policy was never questioned until Dr. William A. Fricke became insurance commissioner of Wisconsin and he did nothing to test its legality during his term of

office. Not only did he, but every commissioner before him, and Commissioner Giljohann for four years after the expiration of Dr. Fricke's term of office, issued certificates declaring that the Equitable had complied with the Wisconsin law relating to companies operating on the legal reserve plan. In 1902, however, Dr. Fricke issued a book in which he severely attacked the deferred dividend contract and cited the Wisconsin law of 1871 as forbidding the deferring of dividends for more than five years. The law reads as follows:

"Every life insurance corporation doing business in this state, upon the principle of mutual insurance, or the members of which are entitled to a share in the surplus funds thereof, may make distribution of such surplus annually or once in two, three, four or five years, as the directors thereof may determine. In determining the amount of the surplus to be distributed there shall be reserved an amount not less than the aggregate net value of all outstanding policies, said value to be computed by the American experience table of mortality, with interest not exceeding  $4\frac{1}{2}$  per cent." (Section 1952, Statutes of 1898.)

Dr. Fricke cited a large number of cases in support of his contention that this law was mandatory, that the word "may" should mean must, etc.

In December, 1902, only a few months after the appearance of Dr. Fricke's book, a policyholder of the Equitable filed a petition in the department of insurance, setting forth that the company had not complied with this law, in that it had not distributed the surplus within five year periods. Mr. Giljohann, who was then commissioner of insurance, declined to take action, on the ground that his term of office had almost expired, and that the matter had better be left entirely to his successor.

When Mr. Host became commissioner, in January, 1903, he granted a hearing to the petitioner, at which both parties were represented by able counsel. On July 31st following, Mr. Host ruled that the company had not complied with the law and gave notice that he would revoke its license unless it filed with him a statement within thirty days declaring that it would comply with his construction of the law. The company did not file such statement, but on the contrary applied to the court for, and obtained, a temporary injunction restraining the commissioner from revoking the license of the company. The case was then heard on its merits

in the Circuit Court for Dane County, and Judge Dunwiddie held that section 1952 was mandatory and that the company *must* distribute the surplus at least once in five years, or in other words, that the deferring of dividends for a longer period than five years was illegal. The company appealed the case to the supreme court, where it was reversed by unanimous decision, directing the lower court to issue a permanent injunction to restrain the commissioner from revoking the license of the company to do business in Wisconsin.

Attempts were made by the attorney-general and the insurance commissioner to get a new trial, but this was denied by the court. A bill was then introduced in the legislature and passed, amending the law, so as to require distribution within five year periods, so that there can now be no dispute as to the meaning of this section.

The query is naturally suggested, what are the arguments for and against the deferred dividend contract? In favor of such contracts, and against short period distribution, it is argued, first, that surplus is necessary as a safeguard for the solvency of the company. The reserve is of course the *standard of solvency*, and in theory the reserve will make good every contract issued, but a working company must also have a surplus, otherwise the reserve would become impaired immediately; hence this resolved itself into a question of *how much surplus* shall be kept on hand to make an adequate safeguard in addition to the reserve. Second, it is argued that deferred policies have been profitable to their holders. The argument that money will double, treble, quadruple, etc., by compound interest has been used with all possible force. In addition to this increase by compound interest, it is argued, that the persistent policyholder will also receive the gain from the forfeitures of lapsed policies. Third, it is argued, that the deferring of dividends will in a large measure prevent lapses, by making the policyholder feel that if he stays to the end of the period he gains, but if he drops out before maturity he loses. Fourth, it is argued that it is a matter of right of contract, that any one has a right to take such a contract if he chooses. This argument is advanced by many of the best authorities on insurance in the United States. In this connection the opinions of the insurance commissioners of the various states are of especial interest.

Mr. Hadley, the deputy commissioner of Michigan, writes: "I do not believe in a law compelling companies to distribute their

surplus at least once in five years. I think that that is a matter to be regulated by the terms of the contract."

Mr. Cole, of Mississippi, writes: "The only thing that the law should undertake to do, in my opinion, is to see that the companies fulfill their contracts rather than undertake to prescribe contracts for the companies."

Commissioner Drake, of the District of Columbia, who was for two years deputy superintendent of insurance of Ohio, and the technical official of that department, writes: "While I have favored and radically advocated for the past thirty-five years—after policies become non-forfeitable—the annual distribution only of surplus, yet I do not approve of Commissioner Host's course toward the Equitable, . . . for the reason that it seems to me that inaction along that line for so many years by his predecessors had established a precedent that time and usage had caused to become law within itself."

Says Mr. Monroe, of Arkansas: "I think people taking insurance should be allowed by law to make contracts to suit them. A state makes a mistake when it undertakes to say to her citizens that they must not make any kind of a contract unless the making of such contract injures some other citizen."

Says Commissioner Young, of North Carolina: "It occurs to me that where a proper and reasonable contract is made between an insurance company and its patrons that the law should allow the complete carrying out of the contract, and should not, in my opinion, unnecessarily interfere with or 'cramp' them in their dealings."

Commissioner Upson, of Connecticut, writes: "In this state the law does not require such a distribution, and I do not believe that such a law should be enacted."

From the Illinois department we have this reply: "The law of this state provides that a life insurance company may make distribution of such surplus once in two, three, four or five years, as the directors may from time to time determine. The appellate court of this state has held, 97 App. Rep. 555, that this provision is not mandatory, but permissive."

Commissioner Durham, of Pennsylvania, says: "I do not believe that the matter needs any legal regulation, but should be left to be regulated by the terms of the contract between the company and its members."

Commissioner Gray, of Rhode Island, says: "I am inclined to



the belief that such a law, if it should impair the obligation of their contracts to the extent of requiring them to change any of the terms of that contract would be unconstitutional."

Commissioner Dearth, of Minnesota, writes: "I can see no good reason why an applicant for a policy of insurance in any company should not have the legal right at least to accept any form of contract from the company as might be deemed desirable, or to his mutual interest, so long as such contract is not against good public policy or does not interfere with the rights or interests of any other party."

In Oregon, Tennessee, Iowa, Vermont, New Hampshire, Virginia, Colorado, Ohio, Arizona and Canada: "There is no such law." "The question has never been raised;" and the commissioners decline to venture an opinion.

Since the above replies were received, however, Commissioners Folk, of Tennessee, and Cutting, of Massachusetts, have expressed themselves in favor of short term distribution in their reports.

From Nevada alone comes an answer in favor of Commissioner Host's contention for short period distribution of surplus, and the only reason given for the answer by the commissioner of that state is that he has read Mr. Host's brief on that subject.

Thus it appears that nearly all the commissioners of insurance in the United States are opposed to the stand taken by Dr. Fricke and Mr. Host. Even those who have declined to venture an opinion on the subject say this much, that there is no such law in their states, and that the question has never been raised. Some of the commissioners have expressed themselves as being in favor of compelling the companies to "render an account of their business" at short intervals, but there is a vast difference between such accounting and mere distribution of surplus at short intervals, for, while the law prescribes a minimum amount to be kept as reserve, it does not prescribe a maximum, nor does it forbid the setting aside of a part of the surplus as a so-called "special reserve" which is merely a subterfuge to evade the law. It should also be remembered that an account is rendered every year in the annual statements required to be filed with the commissioner of insurance, and if the data contained in such statements are insufficient to show the results to policyholders, then the commissioners should call for and publish such additional information as is necessary to show the financial

strength of the companies, their methods of conducting the business, and the actual results to policyholders, for the surplus is a part of the savings bank feature of life insurance, and if it is carefully invested and handled by honest and efficient financiers at an expense commensurate with the service rendered, then it matters not whether it is distributed once in five years, once in ten years, or once in twenty years.

The arguments against deferred dividend contracts and for distribution at short intervals are as follows: first, if a person dies or lapses his policy before the end of the period, he loses the surplus accumulated up to the time of death or lapse. That is, if the policyholder had taken an annual dividend policy he would not forfeit so much as on the deferred dividend policy. This argument is perfectly good as far as it goes, but carried to its logical conclusion, it would forbid the issuance of all limited payment life policies and all kinds of endowment policies, for in the event of death the pure term policies would be the best, because the policyholder would have paid in less money on that plan than on any other, and the amount of indemnity would be the same. In case of death the policyholder loses the reserve on limited payment life and endowment policies, and this amounts in most cases, to much more than the surplus on any kind of policy.

Second, it is argued that the accumulation of a large surplus leads to extravagance in expenses. In this connection we need only mention the high salaries, the ornamentation of buildings, the prizes, bonuses and extra commissions given to increase the volume of new business. But, to ascribe all this to the accumulation of surplus is not warranted by the facts. It is perhaps true in part that a large surplus serves as an inducement to extravagant expenditures, but the same extravagance is found in companies that do not accumulate a large surplus. This was clearly shown by the investigation of the Washington Life. In that company, the surplus had been very low for many years, ranging from 3 to 5 per cent. of the assets, while the surplus in other companies ran from 10 to 25 or 30 per cent. The extravagance revealed by the investigation of the Washington Life was a surprise even to those who were well informed. It has been stated, somewhat humorously, that under the old management the surplus was squandered so fast that it did not have time to accumulate. If the statement is true that "the deferred

dividend contract is the root of all the evils in life insurance," then a company which distributes its surplus annually should be free from those evils. What are the facts? One company which claims to be a purely annual dividend company, shows an increase in salaries far greater than that of the business of the company. The per cent. increase in the various items from 1893 to 1904 was as follows:

1. Insurance in force .....	59.35 per cent.
2. Gross income .....	59.75 per cent.
3. Surplus .....	18.21 per cent.
4. Assets .....	63.63 per cent.
5. Commissions to agents .....	60.37 per cent.
6. Salaries .....	74.23 per cent.

The increase in salaries in this case is entirely out of proportion to the other items, and yet it is claimed to be a purely annual dividend company. The same extravagance is also found in some of the assessment companies that have neither reserve nor surplus accumulated. The expenditures of some assessment companies has risen to such an extent that the legislature of the State of New York, in 1905, found it necessary to pass a law limiting their expenses. How the accumulation of surplus can be responsible for the lavish expenditures of such associations has not been explained.

Third, it is argued that the accumulation of surplus leads to the misuse of trust funds in speculation and investment for the personal profit of the officers. This is also true in part, but in part only, for the entire reserve may be thus misused, provided it is made to earn sufficient interest to comply with the law. For example, if money will earn in the market, say  $5\frac{1}{2}$  per cent., and only 4 per cent. is required by law to maintain the reserve, there is a margin of  $1\frac{1}{2}$  per cent. Thus, the financiers may, if they desire, so use the money as to earn 4 per cent. or  $4\frac{1}{2}$  per cent. for the company while they pocket the balance. This may be done by direct personal loans, by deposits in banks and trust companies, and borrowing from them, or by the renting of buildings to favored tenants, or in a variety of ways that we need not dwell on here.

Fourth, it is argued that the charters of the companies and the laws of some states forbid the deferring of dividends for more than five years. It will be observed that the language of the Wisconsin law, before the recent amendment, was permissive only, unless it

could be clearly shown that the word "may" would have to be construed to be mandatory in order to give effect to the law. The supreme court held that it was permissive only and the same construction was put upon a similar law in the State of Illinois. But in the Wisconsin case it was argued that the context of the law made it mandatory on the theory that a corporation can do only that which is specified. The law specified that distribution might be made within five years, but said nothing about longer periods, hence it is claimed that the word "may" applied only within the five-year period. The court, however, did not admit the force of that argument.

The company also relied on a section (87) of the laws of New York passed in 1868, which reads as follows:

"Any domestic life insurance corporation which by its charter or articles of association, is restricted to making a dividend once in two or more years may hereafter, notwithstanding anything to the contrary in such charter or articles, make and pay over dividends annually, or at longer intervals, in the manner and proportions and among the parties provided for in such charter or articles."

The commissioner denied that this law had any effect in Wisconsin, but if it modifies or alters the charter or articles of association in any way, and the Wisconsin law provides that the companies shall conduct their business according to their charters, then it must have some force even in Wisconsin, and it is difficult to see how the supreme court could hold otherwise than it did.

Another case which is of special interest at this time, is one brought against The Independent Order of Foresters, decided recently by the supreme court of Missouri. In that case it was held that the policy, after three payments had been made, had an equity in the surplus of the association that gave it a surrender value, which carried the policy beyond the date of lapse. In this case, it may be said, the court decided according to what *ought* to be the rule. In the Wisconsin case, the court decided according to what *is* the rule in law and practice, but did not necessarily aim to set up an ideal.

But the controversy is by no means limited to Wisconsin. It is of national and international importance, for the three largest companies are doing business in all parts of the world. The con-

troversy now going on in New York offers a great deal of food for reflection. But that has been sufficiently aired in the press to make a review of it in this connection unnecessary. Suffice it to say that the exposures that have been made show clearly that there are numerous defects in the state laws and that there has been a great deal of the sin of omission on the part of state officials, but it also shows with equal clearness that the policyholder has been grossly negligent with respect to his own interests. Seldom if ever does he read his own policy, or scan the annual statements of his company, but what is worse he never attends the annual meeting, even if he has an opportunity to do so. At the annual meeting of one of the large companies, only eleven members were present, though about eight hundred thousand had the right to vote. The great distance between the policyholder's residence and the company's home office makes attendance at the annual meetings impracticable, besides it would be impracticable to conduct business if such large numbers could be present. The result of this condition of things is that a few men have gained control, and the policyholder, the one who above all others has an interest in the company, has lost hold of the purse strings.

From these facts, and from statistics that are easily obtainable, to show the trend of dividends, expenses, earnings, etc., it appears that the deferred dividend policy is not the source of all evils in life insurance, although that assertion has been made repeatedly by men who ought to be well informed. Nor is the deferred dividend policy an unmixed evil in itself, for, in well managed companies, such policies have been even more profitable than annual dividend policies, and as far as the gambling element is concerned it is not even as bad as the forfeiture of the reserve in high priced endowment policies in case of death.

The root of the evil lies much deeper than the mere question of distribution of surplus. Comparing expenses of companies issuing nothing but annual dividend policies, with the expenses of deferred dividend companies, we find no material difference. It is argued with a great deal of force that deferred dividend policies have been disappointing to their holders, but the same is true of annual dividend policies. The dividends on an annual dividend policy should increase from year to year, with the increase in the amount invested, as they do in conservative and well managed com-

panies. But numerous cases can be cited where the dividends on such policies have been stationary or even decreasing from year to year. What, then, is the remedy? First of all, there must be publicity. Publicity has indeed been coming during the last few months. The trouble is that it smacks so much of yellow journalism and that the statistics published have been so poorly digested. Rumors have been stated as facts, and figures have been cast together to make a showing—anything to make an article under a “scare head” to sell the paper.

Comparisons have been made almost entirely on the basis of premium receipts and growth of business. This is both illogical and unfair. In one of the magazines, which is publishing a series of articles on insurance, there appears a table showing the percentage of dividends to premium receipts in the three large New York companies and the percentage on the same basis of the Phoenix Mutual of Connecticut. The percentages are as follows:

Equitable .....	9.39 per cent.
Mutual Life .....	11.60 per cent.
New York Life .....	9.54 per cent.
Phoenix Mutual .....	19.04 per cent.

The difference between the Phoenix Mutual and the New York companies is indeed striking. But does it mean anything? Percentages corresponding with those given above for the Connecticut Mutual and the Michigan Mutual are 25.50 per cent. and 20.90 per cent. respectively, while in another company, which is in good standing, the percentage on the same basis was about one-third of 1 per cent. But such comparisons are not worth the making except for the express purpose of misleading. They are dishonest and should be suppressed. They are not a true index of a company's efficiency, because one company may be rapidly expanding, while another company has a large amount of paid up policies on its books that call for large dividends, while the premiums are low, and *vice versa*. There is no single basis on which comparisons may be made with justice to all companies. The items must be separated, so as to show the investment expense per unit invested, and the insurance expense per unit, say \$1,000, of insurance written or in force; the high priced endowment business and the single premium life business must be separated from the low priced life and term

business, because each class of business has expense items and ratios peculiar to itself. Among these may be mentioned the relatively high commission paid on life policies compared with the commissions on endowment policies; the high commissions on new business as compared with renewals, and the high investment expenses connected with endowment insurance as compared with ordinary life and term insurance. The importance of these points will be seen when it is considered that in one company the percentage of endowment insurance to the total in force is several times as high as in other companies; that in one company the new premiums exceed the renewals, while in another company the new premiums are only about one-tenth as large as the renewals, and so on. These are distinctions of vital importance to an intelligent understanding of the insurance business as it exists to-day, and it is high time that the correspondents of the daily press take pains to analyze their statistics, if they desire to be of real service to the public. If the statistics published were cast into intelligible form, and presented so as to show the true and final results to policyholders, much of the present abuse in life insurance management would disappear.

But publicity alone is not sufficient. There must also be effective control by the policyholders, and this can be brought about in either of two ways, viz., by a representative system of government similar to that now in vogue in most of the fraternal associations, or by the Australian system of voting through the mails. It is not intended here to uphold fraternal insurance as it exists in the United States, for the system of raising funds by post mortem assessments has proven a failure. But the representative system has much to commend it. It is at the very foundation of the American governmental system, and has worked well in thousands of associations of various kinds. The only drawbacks are the expense of attending meetings, and the danger of representation being lost on the way, as has been the case, only too often, in political conventions.

The Australian system of voting is as follows: Every candidate for an office in the company must announce his candidacy before a specified date. A list of such candidates is then sent to each member qualified to vote; he marks the names he desires to vote for, and returns the list in a sealed envelope to the home office, where they are all opened and counted on a certain day fixed for election.

This method is economical and gives all members a voice in

the election, but it does not afford opportunities for discussion, and this is no small advantage in the representative system. The Australian system may still offer opportunity for corruption in elections, but the counting of the votes could undoubtedly be so safeguarded as to reduce this danger to a minimum.

With a system of company management that would make the officers directly responsible to the policyholders, much of the abuse in insurance management would disappear and the necessity for government supervision of any kind would be greatly lessened. But government supervision has come to stay, and there is need for its strengthening and expanding. The great lack of uniformity in the state laws, the duplication of work by many departments where one is sufficient, as well as the laxity and incompetency on the part of some state officials, point more strongly than ever to the necessity for national supervision of all companies doing an interstate business.



## BRITISH AND AMERICAN TRADE UNIONISM

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Friends and enemies of trade unionism in this country have alike assumed that the unions of Great Britain are a more highly developed form of labor organization than the unions of the United States. Undoubtedly any scientific or historical view of the labor movement in the United States must be based on a study of the British unions. There is no question that the union idea came to us not from the Continent of Europe which is furnishing us a large majority of our working people to-day, but from Great Britain which gave us our people and our institutions over a hundred years ago. Nor is there any doubt that the labor movement reached a very highly developed form in Great Britain some years ago before it had attained any considerable strength here or even before it had spread to any considerable proportion of our trades and industries.

But is it not true that the American unions are developing toward the British type, but quite the reverse. Just as America leads Great Britain in industrial development, in the enterprise and aggressiveness of her employers, so she is beginning to lead Great Britain in the intelligence and thoroughness of her organization of labor.

What is most important in the study of the labor movement of the United States to-day is not the similarity, but the contrast between the British and the American unions. The failure to see that the British form of trade union has not only ceased to advance in the United States, but is decaying both relatively when compared with the newer types of unions and also absolutely furnishes the only adequate explanation of a series of the most radical misinterpretations of the American labor movement that seems to have no end. What are the features of the trade unions of Great Britain most vented in public discussions of the labor question to-day?

Large accumulated funds and insurance benefits. The effort to preserve the proportion of intelligent and skilled workers in the industry against raw and inexperienced recruits. The general absence of closed shop agreements. These features are paraded by the friends of labor in this country as evidence of the merits of trade unionism where it has reached its most developed form. On the other hand, the equally British policies of restriction of apprentices, opposition to the subdivision of labor, restriction of output (to afford work for all the members of the union), indirect restrictions of machinery (through the demand that wages paid for the workers on new machines be so much increased that the introduction of the machines is automatically limited), are held up by the enemies of the unions here as the horrible example of what is in certain store in the future for the United States. Both enemies and friends have failed to see that the two movements having the same name and the same country of origin have come to rest on principles as widely divergent as the political and economic institutions of Great Britain and the United States. Both movements are to be sure primarily economic rather than political in their character, both are built on an organization of labor by trade or industry rather than an organization by locality, both are seeking first of all more wages and shorter hours, and both rely largely on the strike. But here the similarity in essentials seems to cease. The two movements differ in the origin of their power, in the form of their organization, in their tactics and in their ultimate aim.

In claiming that American unions are developing toward the British type, the friends of unionism in this country in so far as they have any influence at all on a movement that is so deeply economic and unconscious in its character, pledge it to the narrow sectional or "trade" policy of its British prototype. The fundamental principle that underlies every one of the policies that characterize these unions, whether good or bad, is the effort to gain and maintain a monopoly of the skilled workers in a given industry or trade.

The unions of Great Britain are, with relatively few exceptions, "trade" unions in a distinct narrow sense. *They are founded not so much on the principles of the organization of employees against employers as on that of the organization of a certain grade of labor against all other grades.* The principle is one of monopoly. Hon.

Carroll D. Wright defends this monopoly as "the vested interest" of the worker in that trade in which he has put so many years of his life. And from this point of view alone can the monopoly be defended. But it must be remembered that the consumer, that is to say the community, rather than the employer must usually pay the bill, and it will be conceded that if any other method can be arrived at by which the worker's condition can be protected without causing any monopoly, without raising prices to the consumer, and without excluding the unskilled laborers who are constantly clamoring for work and to whom the community certainly owes an equal debt, it would be better for the skilled worker, the unskilled worker, the consumer and the whole community alike.

The attempted monopoly of skill fostered by the British unions has been the essence of their being. By the direct restriction of apprentices in the trade, by refusing to allow them to enter the union and benefit from its advantages and by the opposition to the division and specialization of labor, involved in their insistence that the apprentice shall learn "all the trade," the British unions attempt to maintain a monopoly of the skilled men. This policy militates against all improvements in industry that are based on the attempt to save the labor of skilled and exceptionally intelligent and trained men by substituting men of less training and skill where this can be economically accomplished.

The British unions widely encourage the restriction of output. By restriction of output we mean an unwritten law of the working people that limits the amount of work a man should do. The fact that the unions did not invent this law, but the individual workers themselves, does not relieve them from the responsibility for its enforcement. The unwritten law can be made effective only when the employer's discipline is broken down by the counter-discipline of the union. The British unions find it a most convenient means of securing a monopoly of labor. Having secured control over the amount of work done, they attempt by doing less work to secure jobs either (1) for union men out of employment through no fault of their own, or (2) for relatively inferior union workmen. This system has also been further developed into a conscious attempt not only to secure the employment for all the union's unemployed, but (3) even for the far more momentous purpose of bringing about a scarcity of labor. As soon as this point of scarcity approaches,

the wages of labor tend to rise by the natural economic law of supply and demand, the union enforces the recognition of the conditions of the labor market and has the employer and the industry at its command.

Not only do the greater number of the British unions commonly seek a monopoly of skilled men and a monopolistic control of the amount of work to be done by these men, but they also seek to obtain a partial monopoly of the benefits of industrial progress. Those unions where machinery is being most rapidly introduced always deny that they have restricted the machine, and their denial is true if taken in a narrow sense. But they do claim that because certain industrial processes which are due to the scientific or technical advances of society at large have happened to strike their industry, they and no others should obtain a large share of the benefit of these processes. On this ground they demand, when their men are put to work on new or better machines that they should secure considerably better wages even if the work to be done is simpler in its character than what was done before. Or they restrict the number of machines at which a man is allowed to work on the ground not that the machines ought to be prohibited, but that they should not be introduced so rapidly as to throw a large number of men out of employment.

To these grounds for restriction of output, a fourth, the most dangerous of all, has recently assumed a new and threatening importance. In recent years since the complete failure of the great engineers' strike which cost the British unions such an immense sum and since the epidemic of adverse decisions in the courts have tied up union treasuries, strikes have grown more and more infrequent and unsuccessful. Notwithstanding the large accumulated funds of the unions, it has been found that the even greater financial resources of the well-organized employers' associations, backed as they have been recently by the financial community and the courts, have enabled them to hold out either until the working people were starved into submission or until new hands were trained into the industry. But the strike is not the last resource of a laboring population that cannot be physically coerced to labor. Since the strike as the chief weapon of unionism has begun to fail, the *Ca Canny* system has come to take its place. This term is simply the British expression for the restriction of output when socially enforced by the

working people who call out the Scotch word "canny" to their fellow workers when they are of the opinion that these latter are working harder or faster than necessity or good policy dictates. But the term has become more specialized recently than this definition would indicate. It has come to stand not so much for the restrictions above mentioned made for the hopeful purposes of increasing employment or creating a scarcity of labor as to those desperate reprisals of men who have been beaten in a strike and who say, "if we cannot increase the amount of our pay no power on earth can prevent us from decreasing the amount of our work." It is not an ordinary businesslike attempt to secure a monopoly, but a new form of revolt far more dangerous to industry and the employer than the strike itself.

Now, the development of the American industry and the flooding of the American labor market with cheap foreign labor has proceeded at such a pace that any and all of these restrictive policies are forever impossible in this country upon any such scale as they have been practised on the other side. The relative success of the British unions in securing these various monopolistic charges, as against other unorganized workmen and society at large, is due fundamentally to one fact alone, the greater importance of manual skill in British industry.

The unions of Great Britain were founded at a time when manual skill was of much greater importance than it is in Great Britain to-day. In America the demand for this sort of skill has to an even greater extent been replaced by a demand for men without any special manual skill, but with an intelligent grasp of the rudimentary principles of machinery, a ready adaptability to the ever-changing tasks of a machine age or to that great mass of unskilled work, handling of raw materials and products and other simple tasks that have also been created by the machine development.

In a former article<sup>1</sup> on the importance of unskilled labor in the United States, we have shown the underlying economic causes of this development. It is only necessary now to point out that this economic development has been followed by corresponding changes in the form and organization of the labor unions themselves. The conclusions of the previous article were briefly that new machinery and the subdivision of labor were increasing the proportion of

<sup>1</sup>THE ANNALS, Vol. xxiv, page 296.

relatively unskilled labor in all the leading industries, that the new skilled trades demand intelligence and responsibility rather than manual skill, while the new unskilled trades demand speed and nervous intensity rather than mere physical power and endurance as before. It was seen that the division of an industry into a hundred instead of half a dozen branches had forced the unions of the many trades of each industry into one new type of organization, the industrial union. It was also seen that the difficulty of bringing machinery into certain kinds of work common to all industry such as teaming and driving, machine repairing, steam engineering, firing, etc., had increased the numerical ratio of the workmen in these relatively unskilled trades and caused the formation of new trade unions extending not through one or two industries as formerly, but covering practically the whole industrial field. All of these tendencies have had their effect on the form of labor organization that has developed in the United States until it has grown into such a different thing from the unionism of Great Britain that the economics and history of trade unionism in that country have become comparatively useless for ours.

The British unions have practically failed to organize unskilled labor on any considerable scale. With a few exceptions the only methods by which the British labor movement has been able to organize the unskilled has been through the large "common labor" associations, the so-called new unionism, a form of labor organization practically unknown in the United States. Here, a better policy has brought much better results. The inter-trade "industrial unions," after organizing the skilled, have succeeded in organizing many of the unskilled trades of several industries, while the inter-industrial "trade unions" have organized in some localities nearly all the workers of some trades even in industries where no unions of skilled workers have secured a foothold. Common laborers, women and newly arrived immigrants, have in this way been brought together with older and more skilled men into one organization instead of being left alone as in Great Britain to struggle along in a weak or temporary union of their own.

Of the "industrial" unions of America, that of the coal miners with more than a quarter million members is by far the most important. But if we add to this membership that of other purely industrial unions, such as the butchers with 34,000 members, the

iron and steel workers with 13,000, the carworkers and piano workers with about 10,000 each, the paper makers with 8,800 and the potters and carriage and wagon workers with about 5,200 each, we have 87,000 in addition from seven unions alone. Other industrial unions that owe their success partly to the label are included in another reckoning below. If added to the above, we would have a total of 500,000 unionists in the industrial form of organization. Nor is this all. Those federations which are not purely local are industrial in their nature. If we were to add the industrially federated building trades of more than half a million members, our total of industrial organization would considerably exceed 1,000,000 members. And the work of a considerable majority of the membership of most of these unions is to be classed as relatively unskilled.

The membership of the corresponding unions in Great Britain is less in some cases and in all it is more or less along trade rather than industrial lines. There are no special unions of any importance among the butchers, brewers, car workers, piano workers or carriage workers, while that among the iron and steel workers is confined largely to the smelters. Their membership is a fraction of that of the corresponding unions in the United States. The building trades, without any national central organization, are split up into numerous local groups, of which the thirty largest do not contain half of the whole. The largest of several federations of coal miners' unions still leaves a third of the unions outside, while the principal power is in the hands of at least ten different unions, besides a large number of small ones. Finally, the less skilled workers about the mines are either separately organized, even if admitted to the federation, or ignored entirely, while the miners are all relatively skilled men, since neither the machine work of our bituminous fields nor the subdivision of labor which has brought unskilled labor into the anthracite regions has yet come into use. If half a million coal miners are organized in Great Britain against half that number in the United States, the coal mining industries being about the same in both countries, it is partly because the work of each miner goes so much further here on account of the better methods of work, and because there are several hundred thousand less miners in the United States.

Another means by which American unions have organized the unskilled is through the new type of "trade" union that flourishes in

several or all industries where workers of the trade are found. In a few years the teamsters have increased to 84,000 members, of which half are enrolled in the Chicago unions alone. At the Chicago ratio 500,000 of the 600,000 teamsters in the United States may be considered as possible future members. In 1901 the six principal unions in this trade in Great Britain aggregated less than 25,000 members. Similarly the Stationary Engineers and Firemen's Unions, which numbered less than 5,000 in the United States a few years ago, have grown to 35,000 to-day. The five leading British organizations, though much older, had in 1901 only 13,000 members and the federation embraced scarcely more than 20,000.

American unions have also organized the workers in another capacity entirely—as consumers. In Great Britain the power of the working people as consumers to assist the working people as producers has been almost ignored. The only form of organization of consumers that has succeeded among the laboring masses there, has been the great co-operative societies. The relation, however, between these and the unions is not only very weak, but has at times even been strained. In America, on the other hand, we have the boycott in all its forms, often most effective, and above all the union label. Depending as it does on the number of "union" consumers, the American policy of organizing the great masses of unskilled labor is the foundation of its success. On the other hand, it is largely due to this union label or union button that about 400,000 American working people, largely unskilled, have been able to organize. The numerical strength of the more important of this class of organizations in 1904 is shown in the following table. A large proportion of the workers in most of these industries is relatively unskilled.

#### UNIONS WHICH DEPEND ON THE LABEL.

(The total strength of the unions in these same trades and industries in Great Britain is considerably less than 100,000, some of them having no existence there at all.)

Clerks .....	50,000
Hotel and restaurant employees .....	49,000
Garment workers .....	45,000
Cigarmakers .....	40,500
Boot and shoe workers .....	32,000
Brewery workers .....	30,500



Barbers .....	23,600
Musicians .....	22,000
Bakers .....	16,200
Printing pressmen .....	16,000
Shirt, waist and laundry workers .....	16,000
Hatters .....	8,500
Leather workers .....	7,100
Upholsterers .....	3,000
Capmakers .....	2,500
Ladies garment workers .....	2,200
	<hr/>
	364,100

In this country we also have the federation principle developed to an extent unknown in Great Britain. Federation helps more than anything else perhaps in the organization of the unskilled. The motto of the American Federation of Labor is "educate, agitate, organize." Practically all the education in unionism, the agitation of unionism and the organization of unions accomplished in Great Britain, has been done not by any federation, but by the separate trade unions. It has therefore necessarily been along narrow lines in its principles and restricted in its application to those least in need of it. In America, speakers, organizers and financial assistance are never lacking for the new and struggling organization that has shown itself worthy of support. The organizers of the American Federation of Labor are numbered by the hundred and each year several million dollars are distributed to the weaker unions in one way or another through the national and local organizations that compose it. The federation has proven invaluable to the weaker unions in times of strikes. Not only has it made possible a far more effective financial assistance to the unions of the unskilled, but it has even brought about a good many sympathetic and even some more or less general strikes, such as those in Chicago, Kansas City, Denver and San Francisco, some of them by no means without some success.

Federation in Great Britain is, comparatively speaking, in a rudimentary stage. Hardly a fourth of the two million unionists are members through their organization of the new federation of trade unions. Only in the engineering trades, called by our workmen the iron trades, has Britain led. Here the federation includes over two hundred thousand union members. The strongest of the British

federations are not federations in the American sense at all. They are composed not of an allied group of trades, but of many unions operating either in the same trade or the same industry and ought to be a single union. So in the place of the United Mine Workers, a typical union, Great Britain has a loose federation that includes nearly all of the unions in the mining industry. The largest federation in the textile industry is not even so much centralized. It includes only about three-quarters of the unionists in the industry.

The high degree of decentralization in the British union world appears in nearly every trade and industry. The ten largest unions among the miners, for instance, embrace scarcely half the total membership, while the twelve principal unions in the textile industry include less than half of the total membership. So it is with all the leading trades. In America two unions, one far more important than the other, include practically all of what are called the engineering trades in Great Britain, while the five largest unions there include only a minority of all the union members. In America there is one teamsters' organization. In Great Britain there are five important organizations in this field and twenty small ones. There is one organization of carpenters in the United States which has more than nine-tenths of all the union carpenters in the country, while there are three important organizations in Great Britain. In America there is one important organization of seamen, in Great Britain six. In America there is one important organization of garment workers, in Great Britain six. With the wood workers the proportion is again one to six; with the longshoremen, one to seven; with the compositors, one to five; with the boot and shoe workers, one to two; with the stationary engineers, one to five; with the plumbers, one to two; with the bakers, one to three; with the textile workers, one to twelve, etc. In fact there seems to be only one important trade or industry in Great Britain in which the forces of labor are completely unified, while there are very few cases indeed in America where they are divided. The British instance is that of the very powerful union of boilermakers. The only American trades or industries where there is a division of any consequence are the machinists, the carpenters and the painters. In each of these cases the larger organization is many-fold more important than the smaller and will undoubtedly swallow it up in the near future. In each case negotiations to this end are now in progress.

The degree of division and subdivision of unions in British industry at times reaches a point that is most amazing. Especially is this the case in the metal trades where a great deal of hand work survives. So we find among the "principal divisions" of the metal trades in the report of the British Board of Trade some dozen classes of trade unions with more than one hundred sub-divisions. The classes are cutlery, file makers, silver bloaters, lock and hinge makers, wire workers, lock and bolt makers, bedstead workmen and anvil makers, to name only the more important. In the first class alone there are in Sheffield half a dozen large unions and twice as many small ones. So we have the table plate forgers, the saw makers, the spring knife grinders, the spring knife cutters, the Amalgamated Edge Tool Trade Society, and the table and butcher knife hafters, only to mention the more important. In all these trades in America only three unions are of importance—the machinists, the metal workers and the metal polishers, all on a national scale. There is a somewhat similar situation in the leather industry. In America there are only two unions of any consequence, the Leather Workers and the Leather Workers on Horses' Hoofs. In Great Britain there are a large number of organizations divided in half a dozen classes as tanning, currying, dressing and finishing, saddlery and harness, whips, etc.

As a consequence of the more narrow policy of the British unions towards unskilled labor, the total numerical strength in proportion to the number of persons employed in British industry is hardly as great as that of the American unions, although the former have the advantage of at least a generation in their age. The total number of unionists in America is probably not much short of 2,500,000; those of Great Britain are a little more than 2,000,000. But this does not tell half the story. The unions of the United States were estimated by the Industrial Commission to have had approximately 500,000 members in 1892. In 1901 they had already grown to 1,400,000. The unions of Great Britain, on the other hand, were three times as strong numerically at the former date, having a membership of 1,500,000. In 1901 this figure had risen to nearly 2,000,000. *While the membership of American unions increased nearly threefold in ten years, that of Great Britain increased less than one-third.* During the last year the tax paying membership of the American Federation of Labor rose by more than 200,000 members,

while that of other organizations outside of the American Federation of Labor increased even more rapidly, so that the total increase during this rather bad year was perhaps something like a quarter of a million, according to the union showing. On the other hand, the membership of the British unions has for several years almost stood still. In fact the official reports of the Board of Trade show a slight decrease from 1901 to 1902. Moreover, besides an increase of the membership of American unions in the most important industries up to or beyond the British level, with a few important exceptions this increase of membership has meant the organization of trades neglected almost entirely on the other side. While there are 45,000 clothing workers on men's garments organized in the United States, there were in the last report scarcely one-tenth as many in Great Britain. While in the hotels and restaurants, in the breweries and on the street railways, where American unions have secured from 30,000 to 50,000 members in each case respectively, there are in Great Britain only a few hundred union men.

Perhaps the attitude of the two movements towards unskilled labor is nowhere more clearly shown than in their relative success in organizing women. There are no accurate figures concerning the movement in the United States. But it can safely be estimated that more than 100,000 women are organized in this country. The figures for Great Britain are somewhat similar. There, in 1901, there were 120,000 women in the unions. But of these nearly 108,000 were in the textile industry alone which employs considerably less than half of the million women at work in factories. In this industry men and women both are very much better organized than in the United States, though it may be said in passing that the women are practically forced into the organization, as is also the case in many American unions.

Outside of the textile industry a most interesting situation develops. The total number of women organized in this field was, in 1901, 12,151. The total number employed in the same field even two or three years before this was shown by the factory reports to be 619,014, that is to say, the organization of women outside of the textile industry is almost insignificant. It is of interest to enter a little more closely into the classification of the 12,000 women who are organized. Of these, some 2,500 are in the hat and cap industry, which is pretty well unionized. Two thousand two hundred are in

tobacco and 1,100 in potteries, which is a fair showing for these relatively small industries; that is to say, half of this small number of 12,000 employees are engaged in three industries, leaving a little more than 6,000 union women for industries and trades employing half a million. In Chicago alone, persons familiar with the union situation, estimate there are 15,000 union women at the present moment after considerable losses caused by the reaction in industry last summer and fall.

To sum up the relative numerical strength of the British union movement and its failure with a few exceptions to organize the unskilled, the following table will be useful. If in this connection it is remembered that the growth of the British unions has almost come to a standstill in recent years, the table will speak for itself.

UNION MEMBERSHIP IN BRITISH INDUSTRY.

Industry.	Total No. Employed (1898)	Total No. in Unions (1901)
Mining .....	824,791 (1901)	505,023
Metals, etc. ....	1,325,975	334,913
Textiles .....	763,384	219,256
Clothing .....	351,622	66,291

(In the textile industry young persons and children under eighteen have been deducted from the total. In the metal and clothing trades, they are included.)

It is impossible to prepare a similar table with any pretence of accuracy for the United States, but the situation can be summed up in a general way in each of the same industrial divisions. In mining the proportion organized in the United States is very similar to that in Great Britain, or if anything, slightly better, the total number in our unions reaching more than 300,000 out of a total of some 500,000 in the industry. In the metal trades the degree of organization in Great Britain is slightly better than in the United States.

THE UNION MEMBERSHIP IN THE METAL TRADES OF THE UNITED STATES.

Machinists .....	72,300
Iron moulders .....	30,000
Boiler makers, ship builders, etc. ....	22,400
Sheet metal workers .....	16,300
Iron, sheet and tin workers .....	13,500
Blacksmiths .....	10,500
Metal workers .....	12,800

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177,800

In 1900 the total number of persons in these industries was more than 900,000. The organization in the metal trades is therefore somewhat better in Great Britain than in the United States. In the textiles, of course, the difference in favor of the British organizations is striking. Out of five or six hundred thousand persons employed (the Census of Occupations does not indicate the exact figures), the textile workers union here had last year a little over 10,000 members. In the clothing industry the situation is reversed. The American organizations, of which the principal are the garment workers, the boot and shoe workers, the shirt makers and the hatters, have nearly 100,000 members of the several hundred thousand in this industry. As indicated by the above figures, the proportion organized is scarcely half as great in Great Britain. The only important field besides those above mentioned, where Great Britain has an advantage, is in unclassified general labor. Here the gas workers' union had in 1901 some 45,000 members and other unions brought the total to 115,000. In all other industries a comparison is without exception in favor of the United States.

To sum up in a word, the British unions are on the whole as important a factor in British industry as the American unions are in the United States, but in Great Britain, with the exception of the textile industry and the general laborers, it is almost exclusively the skilled that are organized, whereas in the United States a very large majority of the total number of unionists are engaged at relatively unskilled work. In Great Britain the movement is divided both in the country at large and within the trades. In America the unity within the trades and industries is almost complete and a national unity seems to be not far distant, while already three-fourths of the unions are affiliated with the great national organization, the American Federation of Labor. Finally, the unions of the United States are growing with a startling rapidity and the growth does not seem to be a mushroom growth.

But if the American labor organizations are more democratic in their membership and more united in their organization than those of Great Britain, are not the latter richer and therefore better able to hold themselves together in adversity or better provided with the sinews of war? Are they not more solid, more practical, more successful—as measured by financial gains made for themselves or their members?

The financial resources of the British unions are considerably greater than those of the United States and moreover are increasing rapidly. The total funds of the one hundred principal British unions in 1892 were £1,573,944, in 1902 they were £4,372,178, a total increase of nearly threefold, and a per capita increase of more than 100 per cent. The income during the same period increased from £1,462,386 to £2,067,666, remaining near 35s. or about \$8.50 per capita.

But what are these vast funds of the British unions? Do they constitute a war-chest, like Russia's famous hoard of gold? Can they all be used as a fund for obtaining more wages and shorter hours? By no means. As far as the union rules and legal regulations are concerned, yes, but from the standpoint of dollars and cents, no. The trade unions of Great Britain, and to a lesser extent those of America, lead a double life. They are labor organizations in the first instance, but they are also insurance companies in their principal functions, very similar to many mutual benefit societies and the industrial insurance companies of the United States. The funds though convertible to trade union uses, both by the union rule and legal right, are for the most part morally and practically pledged to be paid out in benefits.

For the ten years from 1892 to 1901 inclusive, the amounts paid by the British unions in death, sickness, unemployed and other benefits averaged 60.8 per cent. of the total expenditures, while the proportion expended on "disputes" or strikes averaged less than one-third as much or 19.4 per cent., the remainder going to working and miscellaneous expenses. The proportion varied greatly, of course. In 1893 the coal strike brought the "dispute pay" to nearly one-third the total expended and in the great "engineering dispute" it even reached 33.5 per cent. On the other hand, only 12.3 per cent. was expended on dispute pay in 1901, 10.2 in 1900 and 9.4 in 1899. In recent years while about one-tenth of the union income was going directly into the labor conflict, nearly two-thirds (64.8, 65.4 and 65.2 per cent.) was going for insurance features. And this was not too much, for the risks carried by the British unions steadily grow worse as their average membership grows older and their liabilities steadily increase.

The contrast with the American unions is striking. While death benefits are as prevalent here as there, all other forms of benefits are

less general. Three-fourths of the British unions have sick, accident and out of work benefits. Only one-third of the unions of the American Federation of Labor have sick or accident benefits on a national scale and only one-fourth have out-of-work or travelling benefits. Over a fourth of the British unions have old age benefits, practically none in the United States. The amounts paid by the unions of the American Federation of Labor are shown in the following table. The important unions outside the federation are those of the railways and the metalliferous mines, the bricklayers, the masons, the stonecutters and the plasterers, with a total membership of less than half a million men.

BENEFITS.		
	Labor Unions of the American Federation of Labor.	Trade Unions of Great Britain.
Funeral .....	\$825,687	\$494,075
Sickness and accidents .....	756,762	1,724,170
Unemployed, etc. ....	151,515	1,629,330
Superannuation .....		1,014,760
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	\$1,733,964	\$4,862,335

If the unions outside the federation are added, the result would be materially changed. The Order of Railway Conductors, perhaps the smallest of the four big railway unions, paid last year \$835,500 more than all the unions of the federation expended on death benefits. The four big railway unions alone have expended about twice the total amount recorded by the American Federation of Labor unions. But they are in every way exceptional and more like the British organizations.

Not only are the railway unions exceptional as to their benefit policy, but so also are several unions within the Federation—especially the cigarmakers and the iron moulders. If we subtract the amounts they paid, \$379,000 and \$260,093, respectively, from the total above mentioned for the American Federation of Labor, it is reduced by fully one-third—from \$1,733,964 to \$1,093,871. But the membership of the Cigarmakers Union was only 40,500, that of the Moulders 30,000, both of them together less than one-twentieth of that of the federation. The membership of the four largest railway unions, trainmen, firemen, engineers and conductors is about 200,000. If we add to the unions just mentioned all others that have import-



ant benefit features, the plumbers, the barbers, the glass workers, the boot and shoe workers, and all those that are expending more than \$2.00 per capita on benefits, we find that probably less than half a million of the two and a half million members of the trade unions in the United States are members of organizations that have established such a benefit on a national scale. In Great Britain all the great classes of the unions are paying \$2.00 or more per capita. All the unions except those of general labor and transport and those of the mining and textile industries are paying benefits of from \$4.00 to nearly \$8.00 per capita.

The prevailing custom of the American unions toward benefits is then to leave them to the local unions or to ignore them entirely. In either case the absence of a large national treasury does not necessarily indicate that the workmen do not secure benefits. They may secure them from the industrial insurance companies, so rapidly developing in the United States, or from their local unions. What it does indicate is that the workingmen's insurance and their organization for the economic power and advancement have become two fairly separate and distinct functions in the United States.

The benefit feature is better adapted to British "trade" unionism than to the labor unionism of the United States. In the form of payment and character of the benefit, each "trade" union of course varies, adapting itself to the needs of its members. Once instituted, the benefit therefore becomes a retarding force. But the changing conditions of industry require new classes of members to enforce a successful industrial policy. The specialized benefits check the accession of these new members and so keep the trades apart. The large benefit funds being convertible to immediate use in the form of employment or dispute pay, form a vested interest of the older members that urges them to keep out the new. Many members are not unionists at all at heart, but mere policy holders of "trade" insurance.

But above all, the benefits do not compose a defense (or aggression) fund. Instead of aiding in the conduct of strikes they hinder their declaration except in those extreme cases where a man is willing not only to sacrifice himself and his family in the present for the cause, but also to give up his long hoarded protection against sickness, accident, unemployment and old age in the future, and finally to sacrifice to a certain degree his wife and children after he is dead.

As a consequence the American unions are spending twice as much per capita on strikes, to say nothing of the much greater sums drawn by individual workmen in this country from their savings in times of strikes. The sum lost in wages in strikes averaged sixteen times as much as that spent by the unions during the same conflicts during the last census decade.

For the decade from 1892 to 1901 the British unions spent an average of £919,901 per annum on benefits and only £293,552 on strikes. For the decade from 1891 to 1900 inclusive, the American unions expended an average of \$831,833 per annum on strikes, while their average membership in this period was less than half as great. Lately this expenditure has increased rapidly. In 1900 it was \$1,434,452, while for Great Britain it was for the one hundred principal unions £150,283. But in 1902 the unions of the American Federation of Labor alone spent \$2,729,604 on strikes, in 1903, \$2,932,417, and in 1904, \$2,864,642. If we add to these sums those expended by the bricklayers, the plasterers, the stonemasons and the Western Federation of Miners, we may have half a million or a million more for each of these years. The sum expended by the hundred principal unions of Great Britain in 1893, the year of the coal strike, was £588,373; in 1897, the year of the engineering strike, £633,379. The American unions are then expending *steadily* on strikes a larger amount than that paid out in Great Britain in the largest strike of its history.

Eight years have elapsed since the great engineering dispute in 1897, and since that time there has been no great national contest in the United Kingdom. The amount expended by the unions on attack or defense has fallen to a bare million dollars a year, less than a third of that expended in the United States. The funds have gone on accumulating. The amount per capita doubled from 1892 to 1901, but it is still the trifling sum of 71s. 8d. per capita, scarcely \$18.00, a sum hardly sufficient to cover the liabilities of the unions as insurance institutions, to say nothing of their availability to carry on great labor conflicts.

During the decade for which we have figures (1891-1900), the one hundred principal unions of Great Britain expended an average annual amount on dispute pay of £293,475. As the average membership was over a million, the amount paid for strike was hardly 6s. or \$1.50 per member per year. For three years the unions of the

Federation of Labor, composed in considerable part of unskilled and women workers, have averaged half as much again.

As organizations for collective bargaining the British unions are not expending more, but less for each member than those of the United States. And while the years 1893 and 1897 saw the high water mark of the expenditure of British unions on strikes, the years 1902, 1903 and 1904, during which the membership of the British unions has stood still and their strike expenditure fallen as measured by the previous decade, have witnessed not only a rapidly growing membership of the unions of the United States, but an increasing expenditure for each member of the industrial conflict.

As measured either by membership or by financial power, the trade unions of Great Britain, as organizations bettering the economic condition of the working class or increasing its power in the industrial world, seem already inferior to those of the United States. Manifestly under these conditions the American unions are not going to follow in the footsteps of their predecessors, but will develop as they are developing a form of organization, a method of fighting employers, a policy toward the public and an ultimate goal of their own. They have passed out of the stage where they must look to the rest of the world for precedents and the time is coming when the rest of the world must rather look to them.

## COMMUNICATIONS

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### A SUGGESTION FOR THE PREVENTION OF STRIKES

By A. MAURICE LOW, Washington, D. C.

Is an employer justified in locking out his men? Is an employee justified in striking? To these questions there can be only one answer. In this enlightened age, in this age when the relations of the individual to society and of society to the individual are so interwoven that they cannot be dissociated, the resort to brute force is as much an anachronism as would be the resort to a trial by combat. Society can only justify a strike as it justifies a revolution. It is the last resource when all other means fail. It is the last resource when conditions are so intolerable that the only relief is the remedy of the sword. History has put the stamp of its approval on a few, a very few, revolutions.

I advance the following as the rough outline for the prevention of disputes between capital and labor.

Every employer of labor employing more than say ten employees must, before engaging in business, obtain from the state a license, the terms of which are: That he will not reduce the prevailing rate of wages or increase the hours of labor until after he has served notice of his intention upon his employees and a majority have accepted the change. In case a majority refuse to accept, the question is reported to the licensing authority, matters in the meantime remaining in *statu quo*. It shall be the duty of the licensing authority to ascertain all the facts touching the nature of the employment, the conduct of the business, its profits, the cost of living, and all other pertinent facts, and if the employer is sustained he may make the change as proposed. If the decision of the licensing authority is adverse no change may be made, nor may another proposition of the same character be made within a period of three months. A violation of this clause is punished by fine and imprisonment. An employer may at any time retire from business, but in that case, and to prevent his making the law a dead letter, he may not after retiring from business engage in the same business, either as principal or agent, within a period of six months.

An employee may not refuse to continue to work for an employer in whose employment he then is, and whose salary is regularly paid to him, and whose hours of labor and conditions of employment are not in contravention of any federal, state or municipal law, for any or all of the following reasons: Because an increase of pay is denied him, or because a reduction of hours is not granted to him, or because of the employment of some other person, or because of a regulation made by his employer. If an

employee desires to leave his employment because of any or all of the foregoing reasons he must serve notice upon his employer, and if the employer refuses to accept his demand he notifies the licensing authority, matters between them in the meantime remaining in *statu quo*. It is the duty of the licensing authority to investigate all the matters touching the dispute and to render his decision on just and equitable grounds, due regard being had by him as to the prevailing rates of wages and hours in employment of like character in the vicinity, the cost of living, the profits accruing to the manufacturer, the customs of the trade or craft and all other circumstances. If the decision is adverse to the men they shall remain at work under the conditions then prevailing and may not make another similar application for a period of three months. If at the end of that period they shall renew their application, which shall again be rejected, they may leave their employment without further liability. Failure to obey the decision of the licensing authority subjects the men to fine and punishment. If the application of the men is sustained by the licensing authority, either in whole or in part, he shall serve notice to that effect on the employer, who shall at once comply with the award. Failure on his part subjects him to fine and imprisonment.

The advantages which this system would have I shall suggest later. I prefer in the first place to meet the objections which I see will be raised.

It will be doubtless urged that it is proposed to abolish the right of freedom of contract, which is a thing held sacred by all liberty loving people. That is precisely what I do propose. I would abolish the so-called right which enables a man to oppress his employees, or an employer to be at the mercy of an undisciplined set of men, in the same way that society long years ago abolished the right that a man once possessed to kill the man whose gibe had offended him. For brutality and anarchy and oppression we substitute the simple and beautiful process of the law. It is of course a radical departure. Not more radical, however, than the law of Valerius which gave to the Roman plebeian the right to appeal from the magistrate to the people. Still less radical than the edict of Constantine abolishing crucifixion as a punishment. Whatever is new is always radical, while it is new.

It will perhaps be urged that the employee instead of being benefitted by the proposed law would in the last analysis find himself worse off than before, inasmuch as if he attempted to secure an advance of wages and the decision was adverse he would be compelled to labor at the prevailing rate for the next three months; and if the licensing authority was incompetent or corrupt the decision would always be against him. If his demand is unjust, if the employee asks for higher wages than the employer is justified in paying, it is perfectly proper that the demand should *not* be granted. Employers as well as employees must for their own protection be very sure that the licensing authority is neither corrupt nor inefficient. It lies in their own hands to secure the appointment of honest and competent servants. If they prefer to be badly served rather than well served, they must not complain if the results are unsatisfactory.

Admitting, for the sake of argument, that the method proposed is sound, it will be urged that it is impracticable because it would entail more work

than could be properly performed by one man, who would find it impossible to keep himself informed as to the prevailing rates of wages paid in all the industries in a state, or to be able to ascertain whether a demand for a change of wages was justified by the circumstances.

This objection is not so formidable, when carefully examined, as appears on its face. A properly constituted bureau would have a compilation of the wages and other conditions governing employment in every branch of labor, those compilations being revised from time to time as might be found necessary by improvements in machinery and any other circumstances affecting that particular industry. The bureau would also, and without much difficulty, be able to keep itself informed as to the cost of raw materials, the wholesale and retail prices of the finished product, the general state of the market and the cost of living. Such investigations are now periodically made by the United States Bureau of Labor and many of the Bureaus of Labor of the various states. As a matter of fact, the bureaus that would be created by the passage of a law such as I propose would be able quickly, scientifically, accurately and impartially, to arrive at all the facts affecting a labor dispute, facts which state boards of arbitration and conciliation as now constituted, arbitrators in general, newspapers and the public cannot reach because they have not the machinery with which to conduct their investigation, nor the opportunity to pursue an investigation which ramifies so extensively, and in which so many elements must be weighed with such exactness if a definite result is to be reached, and not a mere hasty generalization pronounced.

It will also be urged that the law would work great injustice to the small employer, as he might be forced to pay an increase of wages or else be driven out of business.

This would be an injury to the individual, but not to society. The man who because of his lack of capital, or his lack of ability, or his lack of thrift, who, in short, is unfitted to be an employer, has no right to degrade other men, and thereby degrade society, by making those men compensate for his deficiencies by a forced levy on their brains or their muscles. That is what an employer does whose only way to keep his head above water is to pay his men less than a prevailing wage, or by exacting of them a greater stint, or by making them work in dangerous or unsanitary surroundings. The world has no use for the inefficient, the incompetent, the unfit.

Doubtless it will be said that conceding the proposed law to be a solution for admitted evils it is merely a theoretical solution because incapable of being put into practical operation. It might be easy, it will be argued, to arrest a single employer or a handful of employees who chose to disregard the mandate of the proper authority, but what would happen in the case of a hundred thousand miners determined to strike; in the event that the employees of a great railroad system ignored the decision of the licensing authority?

The answer to that is what the answer of society has always been to every objection to a law: a law is valuable or worthless precisely as it is the concrete expression of a moral sense of the community. Any law, no matter how benign and beneficial, will fail of its purpose and fall into disrepute that

voices the sentiments of a faction merely and not the great majority of a community. Any law, no matter how harsh or injurious, will be observed if the majority believe that its observance is for the good of society as a whole. Law never precedes the evil that it is designed to cure, nor is law ever enacted in advance of that evil. First a thing is done, a thing that society regards as injurious. Then society proceeds to correct the evil by its prohibition, the disregard of which meets with punishment. In a word, all law in this enlightened age rests on the consent of the governed.

If the world twenty-five centuries after the writing of the twelve tables, "which next to the Christian religion is the most plentiful source of the rules governing actual conduct throughout Western Europe," in the words of Sir Henry Maine, is content to countenance the same rules of brute force and the same appeal to passion that governed the relations of men before there was even an attempt to form a rudimentary code and recognize the principles of law, nothing more can be said on the subject. The last word has been spoken.

No one need fear that the majority of the male inhabitants of a state will be placed in jail because they have elected to defy the law. No one need fear that additional jails will have to be built in every state. Men will obey the law because it represents public sentiment. A great rhetorician once said that you cannot indict a nation, and because there was a certain ring to the words they have been admiringly repeated by the unthinking, which is what the unthinking always do when words tickle their ears. Truth is, not only that you can indict a nation but more than once in the history of the world nations have been brought to plead at the great bar of public opinion. An entire community cannot be put in jail, nor will anyone attempt it, because there will be no necessity for it. One thing that distinguishes the Anglo-Saxon from any other race is its submission to the law. The law will be respected.

And, finally, we shall be told that the proposed law is unconstitutional, a word to terrify the timorous. Constitutionality, like patriotism, is frequently the refuge of the base and the cowardly. Entrenched behind the bulwark of constitutionality, designing men frighten the pusillanimous by declaring the constitution a thing too sacred to be touched, and by perverting the spirit of the constitution to their own selfish ends. If the suggestion herein made is unconstitutional then nearly every state in the Union has violated the constitution. If a law such as is proposed is unconstitutional, then the law of Massachusetts limiting the hours of labor in cotton mills is unconstitutional; then the law of Congress limiting the hours of labor on government work is unconstitutional, and examples can be multiplied a hundredfold. If it is unconstitutional to regulate conditions of labor, which is for the welfare of society, how much greater must be the unconstitutionality of the law which prohibits a man from working more than a certain number of hours a week, no matter how anxious he may be to exceed that limit. Clearly, in view of a long line of court decisions and the trend of modern society, the plea of unconstitutionality cannot be seriously entertained.

If a constitution stands in the way of progress, the constitution must be modified to suit the new conditions. Society does not exist for the benefit of constitutions. Constitutions are created for the benefit of society. A constitution, like any other law, will endure so long as it proves valuable and performs the functions for which it is provided. When it becomes obsolete or unsatisfactory because society has outgrown it—and society outgrows its laws exactly as a community outgrows its buildings and its transportation facilities—or it can be superseded by something better, that something better, in a progressive society, is found. No society, unless it has reached the limit of its intellectual, physical, material and moral development, is ever satisfied to regard any work of man as a finality. Progress is constant and continued evolution; constant and continued dissatisfaction with existing conditions because of a desire to better them; constant and continued change. Neither constitution, nor law, nor custom, nor convention is sacred. Whenever man makes of his works a fetich; whenever he creates an idol of the child of his brain; whenever out of his own conceit he sets up a graven image and proclaims it as a thing sacrosanct, as a thing consecrated and therefore not to be desecrated by profane hands, he is either uncivilized or only semi-civilized, or else he is lapsing into barbarism.

The advantages in favor of substituting law for brute force in dealing with labor disputes are so obvious that they can be briefly stated.

The main argument, the sole argument, in fact, on which the proposition rests, is that law is to do what violence cannot do, that reason is to take the place of passion, that justice is to rob anarchy of its terrors, that equity is to banish chicanery. The sacred duty of the law, the agent of society and civilization, is to guard the weak from the oppression of the strong, to protect the ignorant from their own nescience. In a labor dispute sometimes it is the men who are weaker, at other times it is the masters. Always the innocent are the greatest sufferers. I can see no reason, either in ethics or expediency, why the simple and exact science of the law should not be applied to provide the remedy. We have tried other remedies and they have all proved failures. Yet the simple remedy of compelling obedience to the mandate of society, the remedy for every other injury to the body politic, has been neglected.

I suppose it will be said that the workingmen have almost universally rejected the principle of "compulsory arbitration" and therefore it is hopeless to try to induce them to accept a much more drastic scheme for the settlement of labor disputes. I protest most strongly against the use of that meaningless phrase, "compulsory arbitration," which is not only meaningless, but an utter perversion of words. There is no such thing as "compulsory" arbitration. Arbitration implies mutuality, an agreement to refer a matter in dispute to the judgment of a third party. When A. and B. differ as to a matter in dispute but are desirous of reaching a settlement and agree to abide by the decision of C., there is no necessity for A. B. and C. calling D. E. and F. to ask G. H. and I. to ascertain the merits of the controversy. When A. and B. are determined to reach an amicable agreement there is no opportunity for the outsider to interfere. No one need "compel" them



to arbitrate. "Compulsory arbitration" is as senseless a phrase as the pseudo medical term "heart failure." Both mean nothing.

But when A. and B. dispute a certain matter and A. finds that B. will concede nothing, that he will not submit the claim to arbitration, and being in possession of the disputed property and physically stronger is able to retain its possession, A. has two remedies. He may, if he is foolish, and undisciplined, and passionate, and revengeful, attempt to take what he considers his own by *force majeure*, or he may, if he is sensible, well balanced and calm, invoke the law and rest assured that justice will be done. If A. should attempt to be his own judge and executioner, if he should destroy B.'s property, and not only the property of B. but that of C. D. and E., innocent persons who have no interest in the quarrel, but who may be caused great inconvenience and suffering by it, the law will quickly punish A., and society will applaud the righteousness of the verdict. Multiply A. and B. a thousand-fold, as in the case of a great labor dispute, let A. and B. cause untold misery and suffering not only to themselves but to the community at large, and the law, so prompt and efficacious in revenging the wrongs of society when an individual is the wrongdoer or the sufferer, is veritably stricken with blindness and sits with folded hands impotent, incapable, inefficient. What a travesty on law and all that law means!

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## MARRIAGE AND DIVORCE PROVISIONS IN THE STATE CONSTITUTIONS OF THE UNITED STATES

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In connection with the agitation both in church and political circles during recent years, and especially in view of the message recently sent to Congress by President Roosevelt, it is pertinent to inquire to what extent the subjects of marriage and divorce have been dealt with in the state constitutions of the United States.

These being among the subjects concerning which the federal constitution is silent, the power of regulating these institutions lies wholly with the states. It might have been expected that subjects so important would have been treated by the states in their most dignified and lasting enacted laws. This, however, is not the case. Their constitutions touch only lightly on these subjects. Generally, when mentioned at all, the burden of regulating marriage and divorce by general laws is delegated to the legislatures. There is, however, in the constitutions themselves, sufficient to give interest to an examination of these provisions.

Marriage being the institution at the basis of our social existence, and the bond from which release is sought in divorce, it first demands our attention. Out of the forty-five state constitutions, only eleven treat the subject of marriage at all. A group of southern states, including Alabama, Florida, Mississippi, North Carolina, South Carolina and Tennessee has practical

uniformity in a provision prohibiting miscegenation, with special reference to marriage between whites and negroes or persons of negro descent. In Alabama, any degree of negro blood is prohibitive. In Florida, persons of "negro descent to the fourth generation, inclusive," may not marry whites. In Mississippi, the prohibition is for persons having "one-eighth or more of negro blood." In North Carolina, for persons "of negro descent to the third generation, inclusive." South Carolina, like Mississippi, specifies persons having "one-eighth or more negro blood." Tennessee designates "persons of mixed blood, descended from a negro to the third generation, inclusive," and prohibits such persons living with whites as husband or wife without marriage.

The subject of plural marriages receives attention in the constitutions of Idaho, Utah and South Carolina. In Idaho, in addition to a general prohibition of bigamy and polygamy, the ordinary rights of citizenship are denied to those upholding such practices. These provisions constitute the most extensive notice of the subject of marriage in any of the constitutions.

"Art. 1, Sec. 4. . . . Bigamy and polygamy are forever prohibited in the state, and the legislature shall provide by law for the punishment of such crimes."

"Art. 6, Sec. 3. No person is permitted to vote, serve as a juror, or hold any civil office . . . who is a bigamist or polygamist, or is living in what is known as a patriarchal, plural or celestial marriage, or in violation of any law of this state, or of the United States, forbidding any such crime; or who, in any manner, teaches, advises, counsels, aids, or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural, or celestial marriage, or to live in violation of any such law, or to commit any such crime; or who is a member of or contributes to the support, aid, or encouragement of any order, organization, association, corporation or society, which teaches, advises, counsels, encourages or aids any person to enter into bigamy, polygamy, or such patriarchal or plural marriage, or which teaches or advises that the laws of this state prescribing rules of civil conduct, are not the supreme law of the state. . . ."

In South Carolina, "Persons convicted of . . . bigamy" are disqualified from being registered or voting. In Utah, where we might expect the subject to be treated at length, there is only the terse statement, ". . . polygamous or plural marriages are forever prohibited," supported by the provision that "An act to punish polygamy and other kindred offenses," approved February 4, 1892, is to remain in force.

In the constitution of California, it is provided that "No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect."

In Massachusetts and New Hampshire, all causes of marriage until such time as the legislature shall have made other provision are to be heard and tried by the "governor and council," and by the "superior court" respectively.

[Sections in state constitutions relating to marriage: Alabama, Art. 4, Sec. 102; California, Art. 20, Sec. 7; Florida, Art. 16, Sec. 24; Idaho, Art. 1, Sec. 4, Art. 6, Sec. 3; Massachusetts, Chap. 3, Art. 5; Mississippi, Art. 14,

Sec. 263; New Hampshire, Art. 75; North Carolina, Art. 14, Sec. 8; South Carolina, Art. 2, Sec. 6, Art. 3, Sec. 33; Tennessee, Art. 11, Sec. 14; Utah, Art. 3, Sec. 1, Art. 24, Sec. 2.]

The subject of divorce has been more generally dealt with than marriage in the constitutions of the states, but with less diversity of treatment. Forty-one of the state constitutions have some mention of divorce. Of these, twenty-five in almost identical terms have the following provision: "The legislature shall not pass local or special laws in any of the following cases; . . . granting divorces . . ." These states are Alabama, Arkansas, California, Colorado, Florida, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, North Dakota, Oregon, Pennsylvania, South Dakota, Texas, Utah, West Virginia and Wyoming. A provision similar in effect is found in the constitutions of eleven states, namely, Delaware, Iowa, Kansas, Michigan, Minnesota, New Jersey, New York, Ohio, Tennessee, Washington and Wisconsin. The following are samples of these provisions: "No divorce shall be granted, nor alimony allowed, except by the judgment of a court, as shall be prescribed by general and uniform law" (Del.); "No divorce shall be granted by the General Assembly" (Iowa); "All power to grant divorces is vested in the district courts, subject to regulation by law" (Kans.); "The general assembly shall grant no divorce, nor exercise any judicial power not herein expressly conferred" (Ohio).

In Massachusetts and New Hampshire, it is provided that all causes of divorce and alimony shall be heard and tried by the "governor and council," and by the "superior court," respectively, until such time as the legislature shall make other provision.

Connecticut, Maine, Rhode Island and Vermont do not mention the subject of divorce.

The only instances of originality in the treatment of this subject in state constitutions are to be found in two southern states. Georgia, while not prohibiting divorces, evidently frowns on them. The provisions in her constitution are the following:

"Art. 6, Sec. 15, Pt. 1. No total divorce shall be granted, except on the concurrent verdicts of two juries at different terms of court. Pt. 2. When a divorce is granted, the jury rendering the final verdict shall determine the rights and disabilities of the parties."

"Art. 6, Sec. 16, Pt. 1. Divorce cases shall be brought in the county where the defendant resides, if a resident of this state; if the defendant be not a resident of this state, then in the county in which the plaintiff resides."

South Carolina, however, comes out flat-footed with the prohibition, "Divorces from the bonds of matrimony shall not be allowed in this state."

It should be noted that except in the case of Georgia no distinction is made between divorces *a vinculo* and divorces *a mensa et thoro*. It is plain, however, that the legislatures have no power to grant divorces of either character, except by general law enforceable in the courts. What these legislatures have seen fit to enact on the subject of absolute divorce with right to remarry has been summarized by Bishop William C. Doane in an article in

*Public Opinion*, March 4, 1905. His statistics include the territories as well as the states. "South Carolina has no divorce law. New York grants a divorce only for adultery. Out of 51 states, adultery is a ground in 50; but, in 24 of these 51, wilful neglect to provide and gross neglect of duty is a cause; in 40, habitual drunkenness; in 43 out of the 51, imprisonment for felony or infamous crime; and in 48 out of the 51, desertion or abandonment."

Since it is now coming to be conceded that a national divorce law, obtainable only through an amendment to the federal constitution, and action by Congress, if not impracticable, is of doubtful desirability, would it not be well to attack this problem through more extensive and uniform provisions in state constitutions concerning marriage and divorce, which shall be obtained through direct appeal to the people of the several states?

[Sections in state constitutions relating to divorce: Alabama, Art. 4, Sec. 104; Arkansas, Art. 5, Sec. 24; California, Art. 4, Sec. 25; Colorado, Art. 5, Sec. 25; Delaware, Art. 2, Sec. 18; Florida, Art. 3, Sec. 20; Georgia, Art. 6, Sec. 15, pts. 1, 2, Art. 6, Sec. 16, pt. 1; Idaho, Art. 3, Sec. 19; Illinois, Art. 4, Sec. 22; Indiana, Art. 4, Sec. 22; Iowa, Art. 3, Sec. 27; Kansas, Art. 2, Sec. 18; Kentucky, Sec. 59; Louisiana, Sec. 48; Maryland, Art. 3, Sec. 33; Massachusetts, Chap. 3, Art. 5; Michigan, Art. 4, Sec. 26; Minnesota, Art. 4, Sec. 28; Mississippi, Art. 4, Sec. 90, Art. 6, Sec. 159; Missouri, Art. 4, Sec. 53; Montana, Art. 5, Sec. 26; Nebraska, Art. 3, Sec. 15; Nevada, Art. 4, Sec. 20; New Hampshire, Art. 75; New Jersey, Art. 4, Sec. 7, No. 1; New York, Art. 1, Sec. 9; North Carolina, Art. 2, Sec. 10; North Dakota, Art. 2, Sec. 69; Ohio, Art. 2, Sec. 32; Oregon, Art. 4, Sec. 23; Pennsylvania, Art. 3, Sec. 7; South Carolina, Art. 17, Sec. 3; South Dakota, Art. 3, Sec. 23; Tennessee, Art. 11, Sec. 4; Texas, Art. 3, Sec. 56; Utah, Art. 6, Sec. 26; Virginia, Art. 4, Sec. 63; Washington, Art. 2, Sec. 24, Art. 4, Sec. 6; West Virginia, Art. 6, Sec. 39; Wisconsin, Art. 4, Sec. 24; Wyoming, Art. 2, Sec. 27.]

## BOOK DEPARTMENT

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### NOTES.

**Andrews, Charles M.** *Colonial Self-Government, 1652-1689.* (The American Nation Series, ed. by A. B. Hart, Vol. V.) Pp. xviii, 369. New York: Harper & Bros., 1904.

See "Book Reviews."

**A New York Working Girl.** *The Long Day.* Pp. 303. Price, \$1.20. New York: The Century Company, 1905.

Far more valuable as a real portrayal of actual conditions than most of the attempts of students to live the life of other groups is this simply told story of an anonymous writer. The struggle, the suffering, the hardship, the sham of much pretended charity, the final success ring true. The author entering New York with practically no funds plunges at once into the struggle for a place. Miss Kellor's book, "Out of Work," takes on stronger meaning when this bit of autobiography is read. The author pleads that many existing abuses be corrected; that self-supporting homes for working girls free from taint of almsgiving or sanctified cant be established. She believes that immorality and other vices are more prevalent amongst working girls than many writers would have us believe. Much of this is due in her opinion to the conditions of labor and housing which might be remedied. The book deserves a reading.

**Bourne, Edward G.** *Spain in America, 1450-1580.* (The American Nation Series, ed. by A. B. Hart, Vol. III.) Pp. xx, 350. New York: Harper & Bros., 1904.

See "Book Reviews."

**Cheyney, Edward P.** *European Background of American History, 1300-1600.* (The American Nation Series, ed. by A. B. Hart, Vol. I.) Pp. xxv, 343. New York: Harper & Bros., 1904.

See "Book Reviews."

**Committee of Fifty, The.** *The Liquor Problem.* Pp. ix, 182. Price, \$1.00. Boston and New York: Houghton, Mifflin & Co., 1905.

A genuine service has been rendered by the committee by this digest of its studies under the editorship of Professor Francis G. Peabody. Many who are deeply interested in the subject, but without time for the reading of the separate reports, will here find their essence in brief compass and entertaining form. The work of the committee forms the best source of accurate information upon the various phases of the liquor problem, for the studies are rightly named and are not discussions from preconceived standpoints. Mr. John S. Billings writes the summary of the investigations concerning the Physiological Aspects of the Liquor Problem; Mr. Charles W. Eliot regard-

ing Legislative Aspects; Mr. Henry W. Farnam on Economic Aspects; Mr. Jacob L. Greene on Ethical Aspects, and Mr. Raymond Calkins on Substitutes for the Saloon. For the general reader this little book is the most important treatise upon the subject. It should receive wide attention.

**Davenport, Frederick Morgan.** *Primitive Traits in Religious Revivals.* Pp. xii, 323. Price, \$1.50. New York: The Macmillan Company, 1905.

The author, who is a professor of sociology at Hamilton College, fittingly calls his book "a study in mental and social evolution." It is a valuable contribution to our knowledge. Every minister should read it carefully and take its lessons to heart. The social student will find it helpful in explaining phenomena which have not received the attention they deserve.

Beginning with the thesis that revivals are forms of impulsive social action and that the mind of the primitive man is less stable and less controlled by the higher brain centers than civilized man, the author reviews the religion of the Indian and Negro. Then the Scotch-Irish revival in Kentucky in 1800; in Ulster, 1859, and the revivals of Edwards, Wesley, Finney and Moody are carefully outlined. Much that is thoroughly bad in methods and results is revealed and the elements of fear, hypnotic influence, etc., condemned. On the other hand, the author believes in a newer and saner evangelism and in the development of a higher spirituality. "The days of religious effervescence and passional unrestraint are dying. The days of intelligent, undemonstrative and self-sacrificing piety are dawning."

**Dunning, William A.** *A History of Political Theories from Luther to Montesquieu.* Pp. xii, 459. Price, \$2.50. New York: The Macmillan Company, 1905.

Reserved for later notice.

**Fagnot, Millerand et Strohl.** *La durée légale du travail. Des modifications à apporter à la loi de 1900.* Pp. 300. Price, 2.50 fr. Paris: Félix Alcan.

**Farrand, Livingston.** *Basis of American History, 1500-1900.* (The American Nation Series, ed. by A. B. Hart, Vol. II.) Pp. xviii, 303. New York: Harper & Bros., 1904.

See "Book Reviews."

**Hibbard, Benjamin H.** *The History of Agriculture in Dane County, Wisconsin.* (Economics and Political Science Series, No. 2, Vol. I.) Pp. 127. Madison: University of Wisconsin.

**Jenks, Albert Ernest.** *The Bontoc Igorot.* Pp. 266 and plates. Manila: Bureau of Public Printing, 1905.

This monograph is the first volume of the reports of the ethnological survey of which the author is the chief. The material was gathered during a five months' residence in 1903 in the Bontoc pueblo of north central Luzon. The volume is profusely illustrated. It is a matter of congratulation that the study of the native races of the Philippines is being systematically undertaken. This excellent study reflects great credit upon the author.

**Macedo, Pablo.** *La Evolución Mercantil, Comunicaciones y Obras Públicas, La Hacienda Pública.* Pp. 617. Mexico: J. Ballezá y Ca., 1905.

In a volume entitled "La Evolución Mercantil, Comunicaciones y Obras Públicas, La Hacienda Pública," Mr. Macedo has published three monographs which constitute an important contribution to the economic history of Mexico. In reading this volume one is impressed with the far-reaching changes that have taken place during the administration of President Diaz. The development of the means of communication, the improvement of the ports and the reorganization of the finances of the country were tasks which might well have appalled a less resolute and patriotic statesman. In this work, especially in the financial reorganization of the country, the author has played an important part. As a member of the Commission on Monetary Reform he exerted considerable influence in laying the basis for the introduction of the gold standard and the establishment of a stable monetary system. It is to be hoped that Mr. Macedo will supplement this series with a monograph on the mining and agricultural development of the country.

**Milyoukov, Paul.** *Russia and its Crisis.* Pp. xv, 589. Price, \$3.00. Chicago: University Press. London: T. Fisher Unwin, 1905.

Reserved for later notice.

**Monnier, Auguste.** *Les Accidents du Travail dans l'Agriculture et la Législation Anglaise.* Pp. 204. Paris: L. Larose.

**New York.** *Public Papers of George Clinton, First Governor of New York, 1777-1795; 1801-1804.* Vols. VII and VIII. Published by the State of New York.

**Pigafetta, Antonio.** *Magellan's Voyage Around the World.* Two Vols. Price, \$7.50. Cleveland: The Arthur H. Clark Company, 1905.

Pigafetta's "Account of Magellan's Voyage Around the World" has just come from the press. The original and complete Italian text with page-for-page English translation and annotated by James A. Robertson, with facsimiles of the original plates and maps. Pigafetta is the best and fullest authority for Magellan's voyage which is here completely presented in English for the first time.

**Redlich, Josef.** *Local Government in England.* Edited by F. W. Hirst. Two Vols. Pp. xxvi, 427, and x, 435. Price, 21s. each. London: The Macmillan Company.

See "Book Reviews."

**Reeves, Jessie S.** *The Napoleonic Exiles in America.* (Johns Hopkins University Studies in Historical and Political Science, Series XXIII, Nos. 9, 10.)

**Reinsch, Paul S.** *Colonial Administration.* (Citizen's Library of Economics, Politics and Sociology, edited by R. T. Ely.) Pp. viii, 422. Price, \$1.50. New York: The Macmillan Company, 1905.

Reserved for later notice.

Salz, Arthur. *Beiträge zur Geschichte und Kritik der Lohnfondstheorie.* (Münchener Volkswirtschaftliche Studien, No. 70.) Pp. 200. Price, 4.50 M. Stuttgart: J. G. Cotta, 1905.

Sherman, Waldo H. *Civics.* Pp. x, 328. New York: The Macmillan Company, 1905.

A book "for students who have at least reached high school age." The purpose is worthy indeed, and some of the methods of presentation show that the author is concrete and understands how to instruct. But he should not have undertaken to write this book before thinking himself out clearly and fully. It can hardly be a mere mistake in the choice of language which permits him to say (page 76), "The United States, as we have seen, is given power by the Constitution (sic) to regulate commerce," etc. The sins against good English are numerous, and seriously affect the educational purpose of the book.

The volume is divided into two parts, "Studies in American Citizenship" and "Collegeville." In the first, Land and Government, Civil Organizations, Banks, Civic and Municipal Institutions, Justice, etc., are treated. In the second, "Collegeville" represents a township and the various problems of American citizenship are solved in an ideal fashion. The Declaration of Independence and the Constitution are appended.

Sinclair, William A. *The Aftermath of Slavery.* Pp. xiii, 358. Price, \$1.50. Boston: Small, Maynard & Co., 1905.

The author, born in slavery, has been the financial secretary of Howard University for the past sixteen years. In this volume he seeks to study "the condition and environment of the American negro." It seems a bit curious then to find the first seven of the ten chapters devoted to a discussion of the legal and political status of the negro, while the last two chapters largely deal with the same topics. But one chapter (No. 7) of thirty-two pages is needed to tell of "The Rise and Achievements of the Colored Race." The author finds in slavery the roots of whatever is bad among negroes to-day. He has nothing but praise for all the reconstruction measures of the Republican party. The South to-day would re-enslave the black if possible. The moral sentiment of the rest of the country together with the power of the negroes will compel a readjustment until the negroes get their rights. There is a fearful condemnation of southern conditions backed up by much evidence which, however, almost totally ignores the thousands of instances of good treatment which must surely offset some of the bad.

The author is critical, not to say vindictive. The style is clean and forceful. Of its kind it is the best any negro has written. The trouble is that the kind is bad. It is the thesis of a special pleader making strong his case by ignoring the other side. It is in no sense a study of the American negro for it makes no contribution to our knowledge, nor does it suggest any new methods of improving conditions. It is worth while to read the book to see what an intelligent negro thinks of the situation, but one closes it with a deep sense of regret that the author sees so little that is good.



**Thwaites, Reuben Gold, Ed.** *Early Western Journals, 1748-1765.* Price, \$4.00. Cleveland: The Arthur H. Clark Company, 1905.

This important volume on early Pennsylvania history has recently been issued. The volume presents the best and rarest contemporary accounts of the most interesting period of early Pennsylvania history, giving the journals of Conrad Weiser and George Croghan, Indian agents from 1748-1765, and of Post, the Moravian missionary. These journals form the very best contemporary material for the history of the last French War and Pontiac's conspiracy.

**Tyler, Lyon G.** *England in America, 1580-1652.* (The American Nation Series, edited by A. B. Hart. Vol. IV. Pp. xx, 355. New York: Harper & Bros., 1904.

See "Book Reviews."

**Whelpley, J. D.** *The Problem of the Immigrant.* Pp. viii, 294. Price, \$3.00. New York: E. P. Dutton & Co., 1905.

In this study the author presents, after a brief discussion of the general question, "a summary of conditions, laws and regulations concerning the movement of population to and from the British Empire, United States, France, Belgium, Switzerland, Germany, Italy, Austria-Hungary, Spain, Portugal, Netherlands, Denmark, Scandinavia and Prussia." Such data is not easily accessible to the average student or legislator and the volume will be of great service. The information was collected on the ground. The author does not pretend to discuss the many vexing problems. It is to be hoped that he will do this in a later monograph.

**Williams, Ralph D.** *The Honorable Peter White: A Biographical Sketch of the Lake Superior Iron Country.* Pp. xvi, 205. Cleveland: Penton Publishing Company, 1905.

**Willis, Henry P.** *Our Philippine Problem.* Pp. xiii, 479. Price, \$1.50. New York: Henry Holt & Co., 1905.

See "Book Reviews."

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**Hart, Albert Bushnell (Ed.).** *The American Nation.* Five Volumes. First Series. Price, \$9.00. New York: Harper & Bros., 1904-05.

Vol. I. *European Background of American History.* E. P. Cheyney. Pp. xxv, 343.

Vol. II. *Basis of American History.* Livingston Farrand. Pp. xviii, 303.

Vol. III. *Spain in America.* Edward Gaylord Bourne. Pp. xx, 350.

Vol. IV. *England in America.* Lyon Gardiner Tyler. Pp. xvii, 355.

Vol. V. *Colonial Self-Government.* Charles McLean Andrews. Pp. xviii, 369.

Among the numerous recent histories of the United States this one, to be completed in twenty-eight volumes, bids fair to surpass not only its immediate associates, but to be considered as the best of all. Every method has its defects. In the present case it is obviously impossible to expect with twenty-six authors the unity of style with its accompanying charms to be found in

Prescott or McMaster. The effort of the editor to keep the volumes uniform in size must also have some bad effects. On the other hand, the reader has the great advantage of getting the ripe judgment of a specialist in each field. Suffice it in general to say that the volumes are clearly written, with rare good taste as to perspective and proportion. They are untechnical, but are provided with ample foot-notes and critical bibliographies. The reader may be sure that all crass errors are eliminated. The attempt is constantly made to portray the life of the people and to explain events in the light of economic opportunity and social conditions so that the political side is not over-emphasized. Judging by the first series, the history will be, when complete, a monumental work fitted to stand comparison with similar productions of the English and German students.

The series begins fittingly with the volume on "The European Background of American History," by Professor E. P. Cheyney, of the University of Pennsylvania. The significance of the disturbance of ancient trade routes by the Turkish invasion is set forth, as is also the story of the great commercial companies. The European governments of the sixteenth century are described and the effect of the Reformation traced. Thus the reader comes to understand the conditions which led to the discovery of America and the migration of the early settlers.

Volume II, "Basis of American History," by Professor Livingston Farrand, is a most important contribution to our literature. It fills a place hitherto almost vacant. For the general reader it furnishes the best account of the life and civilization of the Indians, telling in addition something of the physiography, the flora and fauna of the country. It seems a bit inharmonious to find statistics of recent mineral production and yield of corn, but these were evidently considered necessary in view of the history as a whole. One only wishes that Professor Farrand could have told a little more about the Indians and the degree to which they utilized natural opportunities.

In the third volume, "Spain in America," Professor Edward Gaylord Bourne, of Yale, tells of the great discoverers, Magellan being given highest rank; of the beginnings of the Spanish colonial policy and the race conditions in Spanish-America down to 1821. Professor Bourne gives Spain greater credit than the layman usually thinks her due and shows the existence of a culture in the colonies little mentioned by most writers. Yet, in the foolish restrictions put upon trade and in the lack of initiative and self-government lay the seeds of final decay. Even to-day Latin civilization has a firm hold upon American soil and the author has done well to emphasize the many good things in earlier Spanish customs.

President Tyler, of Williams and Mary College, traces the English settlements, in Volume IV, "England in America." The contrasts between North and South in soil and climate with their results upon social and commercial life are indicated, together with the final conquest of the wilderness and the victory over other nations, tracing the history down to 1652.

The last volume of the "first series" is from the pen of Professor Charles M. Andrews, of Bryn Mawr College, and is entitled "Colonial Self-Govern-

ment." The new colonial system after 1652 is the author's starting point, and the editor claims that some of the vexed problems regarding the charters of Connecticut and Rhode Island have been settled by Professor Andrews' researches. Much new material is presented relative to the other colonies and the beginnings of Pennsylvania. The volume closes with a description of the social and economic conditions about 1689.

CARL KELSEY.

*University of Pennsylvania.*

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**Ireland, Alleyne.** *The Far Eastern Tropics.* Pp. vii, 339. Price, \$2.00. Boston and New York: Houghton, Mifflin & Co., 1905.

Mr. Ireland's book presents a number of strong points; it is based on first-hand knowledge, gathered during a two years' stay in the Far East, it is for the most part clearly written in an interesting style, it gives just the facts which an American might wish to know, and its conclusions are given with an impartiality, honesty and forcefulness which must carry the greatest weight in the minds of the unprejudiced. The work consists of a number of descriptive and critical essays, published at irregular intervals, but all of uniform plan, dealing with the most important British, Dutch, French and American dependencies in the Far East. They have been brought up to date and carefully fitted together so that they constitute a harmonious whole, far superior in value to the author's previous work.

Starting out from the influence of environment upon civilization, the author agrees with Mr. Kidd that the tropical countries are devoid of all ability to produce and maintain an advanced civilization. India, Egypt, Peru and Mexico were at one time highly civilized, owing to the remarkable fertility of their environment, but since this civilization was based purely upon the exceptional fertility of nature rather than the ability of man, it could not endure. The vigor of mind and body which can only come from conflict with nature gives rise to the highest and most permanent forms of progress, which are now realized in what we term western civilization. The peoples of the heated area having come under the tutelage of the northern nations the question arises—how can efficient government and a reasonably advanced state of development be maintained? Shall our chief aim be to develop the native population for complete self-government? The author answers, "if native ideals are to prevail, the substantial control of affairs must remain in the hands of natives, . . . if the administration is to be conducted on western lines the control must rest with white men." The chapters on Hong Kong, British North Borneo, Sarawak, Burma, the Malaccan colonies, Java and French Indo-China all show how Great Britain, Holland and France have maintained a strong control over those dependencies in which the natives outnumber the white population. This control may often be disguised with the object of sparing aboriginal susceptibilities; it may be moderated so as to enlist large numbers of natives in the civil service, but always there exists the undoubted legislative, administrative and judicial control which initiates measures, carries them through the legislative body, executes and interprets them. The Far

Eastern Tropics are governed, and in the main well-governed, by the white man.

Next follow four chapters on American rule in the Philippines, in the course of which Mr. Ireland unsparingly points out the weaknesses of the existing government. The more important of these are, the futile attempt to prepare the natives in a decade for a political system which it took white men centuries to develop; the insistence upon the curious fallacy that education is the first need of the islands, when the great natural resources of the archipelago, whose development is absolutely essential to the maintenance of prosperity, remain practically untouched; the establishment of one of the most costly colonial governments in the whole tropics, which nevertheless returns a minimum of permanent public works to the taxpayer in compensation for exorbitant taxes; the failure to establish peace and order and to protect those natives who are loyal to the government; the maintenance of a prohibitive tariff against Philippine exports to the United States; the failure to give a full and detailed statement of government expenditures, and the absence of any effort to insure an adequate labor supply for the islands.

Two of these points deserve special consideration, viz., the tariff and the labor supply. The governor and commission have repeatedly urged with unanswerable logic the necessity of allowing the Filipino to market his products in the United States, and it is reported that the recent tour of the islands by members of Congress in company with the Secretary of War, has already had a marked effect in showing the need for an immediate change. Hitherto Congress has refused to remove this insurmountable barrier to Philippine progress. In the matter of the labor supply Mr. Ireland shows that throughout the country districts it is practically impossible to obtain either skilled or unskilled labor because of the indolent nature of the inhabitants and the fact that the few who will work, go to the cities. But the author goes much farther; he demonstrates that in almost all the tropical countries of the world where industrial development is taking place, this development rests upon coolie labor from China or East India. It is not to be denied that the disadvantages of the coolie labor system should be weighed in the balance, but neither is it possible to escape the inexorable conclusion that if the native will not work, either the country must be abandoned to industrial stagnation or a supply of willing laborers must be brought in from abroad. The weight of evidence is in favor of the admission of the Chinaman to the Philippines.

- JAMES T. YOUNG.

*University of Pennsylvania.*

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**Judson, Frederick N.** *The Law of Interstate Commerce and its Federal Regulation.* Pp. xix. 509. Price, \$5.00. Chicago: T. H. Flood & Co., 1905.

Mr. Judson has written his volume for the purpose of presenting in a "compact form the law of interstate commerce as declared by the courts since the adoption of the Constitution, and also enacted by Congress and

applied by the Interstate Commerce Commission in the direct exercise of the power of federal regulation." "It is the aim of this book to state without needless amplification or iteration the existing law, as its rules have been judicially formulated, and the interesting questions of public policy connected with this subject have therefore not been discussed."

The volume is divided into two parts, the first part, comprising about one-fourth of the book, deals briefly with the power of the federal government over interstate commerce and with the statutes that have been enacted in the exercise of that power. Part two discusses in more detail the interstate commerce act of 1887, the anti-trust law of 1890, the safety appliance legislation of 1893 and 1896, and various other minor acts of legislation regarding interstate commerce. The latter part of the book is devoted to the presentation of information regarding "procedure before the Interstate Commerce Commission." The rules of practice and the forms in proceedings before the commission are given, and a lengthy table is included analyzing the commission's rulings.

The volume is systematically arranged, it is well proportioned and carefully written. It is both a good treatise and a valuable book of reference. Mr. Judson has done an especially useful service by preparing this careful treatise covering not only the constitutional and statute law of interstate commerce, but also the large and highly important body of administrative law that has been developed by the Interstate Commerce Commission since 1887. As he states, "every phase of the complex adjustment of railway rates has been considered by the commission, and their rulings in this infinite variety of cases have a permanent value in the solution of the transportation problems of the future." Neither the lawyer nor the economist interested in transportation can afford to neglect part two of Mr. Judson's book.

EMORY R. JOHNSON.

*University of Pennsylvania.*

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**Redlich, Josef.** *Local Government in England.* Edited with additions by Francis W. Hirst. Two Vols. Pp. 427, 435. Price. 21s. each. London: The Macmillan Company.

Until very recently, von Gneist's monographs and books upon English local government have been recognized as authorities in all German-speaking countries. In large measure, his theories have had full sway for over a generation, and not until the work by Professor Josef Redlich, of the University of Vienna, was published in 1901, was there a thoroughgoing criticism of them or a comprehensive work upon the subject from the opposite point of view. When this treatise appeared, it attracted attention and received favorable comment not only in Austria and Germany, but in England. Thanks to Mr. Hirst, Barrister of the Inner Temple, the book may now be had in English.

The volumes before us are not a mere translation. Mr. Hirst is a thorough student of his own country, and the two volumes he has written

evidence the scientific character of his workmanship. As Dr. Redlich himself says:

"The reader will see that it is not a mere translation of the German words and phrases, but a real English book. The translator has not only mastered fully the difficulties of the 'learned German,' in which I am afraid the book seems to be written in some parts, and has grasped exhaustively the ideas of the author, but he has also shown himself able in an admirable way to express the opinions of the German author in an original English form of thinking."

A comparison of the German and the English editions shows a number of differences. The English reader is not greatly interested in von Gneist's ideas or their detailed refutation, and Mr. Hirst has very greatly condensed this portion of the original, leaving enough, however, to give the gist of the argument. A similar pruning process has been applied to the portion upon the historical development of political forms and ideas—a subject more or less familiar to Englishmen and upon which there is already a voluminous literature. Indeed, the policy has been followed throughout of condensation or omission of discussions upon such points as are familiar to or easily understood by English readers.

In other instances, Mr. Hirst has expanded and added much new matter, e. g., the chapter upon the territorial basis of the municipal borough, enlarged to four times its original size. These additions will doubtless be more interesting to Englishmen than to Americans, who care little for such anomalous conditions as are described. The new matter in the chapters upon finance, "urban districts," poor law administration and education pleases us more. The last mentioned chapter has been entirely rewritten. In the German edition, the local aspect of the subject was dismissed with a brief notice of three pages; it now covers thirteen. This expansion was rendered necessary partially by the education act of 1902, which was passed after Dr. Redlich had completed his labors. Many interesting points have also been brought out in new foot-notes, and a number which appeared in the earlier edition have been omitted. Mr. Hirst has also added tables of the cases and statutes cited.

A perfectly natural result of the translation and re-writing has been the elimination of errors that inevitably slip in. For example, the minimum of population which a town must have to become a *county* borough is erroneously given by Dr. Redlich to be 100,000; Mr. Hirst has corrected this to 50,000.

In general outlines, however, the two works are entirely similar. The same plan, arrangement and scope have been followed in each. First comes an historical *résumé* of the political development to the end of the eighteenth century. This is followed by chapters on the reform of local government from the development of radicalism to the final establishment of democratic forms and theories in recent years. The constitution and government of municipal boroughs are then dealt with, after which one passes in the second volume to the county councils, urban and rural districts, parishes, poor relief administration and education. Considerable space is devoted to the relation

of the local to the central authorities and the organization and methods of the central departments that deal with local matters. The work closes with an outline of the theory of English local government and a criticism of von Gneist's doctrine of "Self-government."

Professor Redlich, and Mr. Hirst following in his tracks, have devoted themselves to what may be termed the politico-institutional side of local government. Every important local organism has been treated, its origin, development, organization, functions, efficiency and relation to other local bodies and higher governmental authorities. This treatment has by no means been confined to the contents of statutes and judicial decisions, but the factors and motives which dominate this machinery and accelerate or retard its motion are fully considered. Take, for example, the chapter on "Municipal Electioneering and Municipal Politics." I know of nothing else ever published which gives such an accurate and satisfying account of campaign methods in municipal elections, the attitude of the national parties in local politics, the working of the party system and the post-election attitude of successful candidates. No subject has been more frequently misunderstood and misrepresented in American books and articles.

The restriction of the field to the anatomy of local government has excluded obviously a long list of subjects which are extremely interesting, such as the social problems of city life and the relation of the community in its governmental capacity to economic and social conditions. But this fact is stated not as a criticism, for the boundaries set have logically been defined, but to give an idea of the scope of the work. To have handled these other subjects of such vital interest with the same degree of thoroughness would have required at least one additional volume. This work has been left to other hands.

The American reader who uses German and English with equal fluency will generally find the English edition more satisfactory: the view-point is more nearly our own. In certain specific instances, however, it will be necessary to consult the German edition rather than the English, as the two are not exactly alike. No one who wishes to be informed accurately upon the subject, especially that phase which is so prominent now—municipal government—can afford to be without either the German or the English edition. It is by far the best book upon its subject that has appeared in any language, and will receive a hearty welcome in the United States.

MILO R. MALTBE.

*New York City.*

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**Ross, Edward Alsworth.** *Foundations of Sociology.* Pp. xiv, 410. Price, \$1.25. New York: The Macmillan Company, 1905.

In this volume Professor Ross has gathered articles which have already appeared in various magazines; the earliest, the chapter on "Mob Mind" from the *Popular Science Monthly* of July, 1897; the latest, "The Value Rank of the American People," from *The Independent*, of November 10, 1904. The

volume is marked by the author's well-known versatility, clearness of statement and brilliancy of generalization. The chapters, however, show that they were written for different occasions. It is more than doubtful, too, whether some of them would have been included had the author started *de novo* to write the book.

In the preface it is stated: "An authoritative body of social theory exists at present as aspiration rather than fact. In this volume the writer has ventured on little beyond the laying of foundations." In the mind of the reviewer it is a bit premature to lay the foundation until the stones are quarried. For this reason I dislike the title of the book and believe that the author could have found one far better fitting the text.

Professor Ross looks upon sociology as a general science, of which social morphology, psychology, mechanics are but segments. Those phenomena are social "which we cannot explain without bringing in the action of one human being on another." In the first chapter, "The Scope and Task of Sociology," the author is running the boundary lines of the science, while in the second, economics and sociology are distinguished. In the chapter on "Social Laws" some of the pet formulæ of various writers are discussed with the conclusion that "sociology is not so much a sister science to politics or jurisprudence, as a fundamental and comprehensive discipline uniting at the base all the social sciences." The discussion of "The Unit of Investigation in Sociology" is very suggestive and stimulating. "The bane of sociology has been the employment of large units, the comparison in lump instead of the comparison in detail." "It is better to look for the common features of crowds or clans, or secret societies, or mining camps, or towns, than to compare nations." The real unit is the "social process," not some "product," be the product "groups," "relations," "institutions," "imperatives," "uniformities." "The social forces are human desires," which the author divides into "natural" (appetitive, hedonic, egotic, affective, recreative) and "cultural" (religious, ethical, æsthetic, intellectual). "The corner-stone of sociology must be a sound doctrine of the social forces."

Seventy-three pages are devoted to "The Factors of Social Change." The line of cleavage between statics and dynamics lies in the distinction between *persistence* and *change*. It is time sociologists dropped the words *progress* and *regress* and discussed *social change*. The growth of population, wealth, migration, invention and environmental changes are the chief stimuli to social change. This chapter is very valuable. The author has also rendered a service in his section of ninety-six pages on "Recent Tendencies in Sociology" in which the ideas of recent writers are compared and criticised. Chapter ten, "The Causes of Race Superiority" was the annual address before the American Academy of Political and Social Science in 1901, and was printed in the *ANNALS*, of July, 1901. The last article on "The Value Rank of the American People" is a brief essay to show that, unless care be taken, continued immigration, the absence of free land, the destructiveness of city life may seriously threaten the so-called "American spirit."

In brief, these are the topics treated. No one interested in the development of social theory, or in the understanding of social phenomena can



afford to leave it unread. The volume belongs in "The Citizen's Library," edited by Professor R. T. Ely.

CARL KELSEY.

*University of Pennsylvania.*

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**Willis, Henry Parker.** *Our Philippine Problem.* Pp. xiii, 479. Price, \$1.50. New York: Henry Holt & Co., 1905.

It needs to be stated at the beginning that this book is frankly critical of our Philippine policy, and particularly of the administration thereof. One who holds the views that the author evidently entertains in regard to "imperialism" could hardly write otherwise. Admitting that the political ethics of imperialism is an open question we can only ask our author to avoid censoriousness. Opinion will surely be divided as to whether he has succeeded in this or not, but since the division will probably traverse political lines of cleavage, we may accept it as considerably more than a brief of the attorney for the prosecution. So much can be stated at the beginning. Further perusal and analysis of the book will convince many readers, perhaps unwillingly too, that the criticisms and charges it contains are not only serious and grave in the extreme, but that their authenticity seems unquestionable. Let us particularize.

"It is obvious," he says, "that an absolute government, such as exists to-day in the Philippines, cannot lay claim to merit as the representative of popular will, and must rest for its justification (so far as any is possible) upon results. It must stand as a despotism, and those who believe in despotism anywhere applied can warrant such belief only on the ground that it is benevolent." The assertion that it is an absolute government, a despotism, he supports by the following evidence:

"The powers now actually in the hands of the civil governor are—1. All executive authority; 2. Leadership of the 'legislative' body and power to prescribe its rules and mode of operation, including the practical power to initiate all legislation; 3. Appointment of all officers of the government outside of the civil service, including judges of the first instance; 4. Practical direction of the military forces in their operation and distribution."

The so-called "legislative body" or commission acts as no check to the executive, as it is completely subservient thereto. "It should be understood that the islands are not now under civil, but under military, rule," the ruler being required to report regularly to the Secretary of War, and in no other way is information obtainable. This is certainly a condition of despotism; is it justified by the results?

Professor Willis answers, no; but he is careful to state that the present officials are not to be held responsible for a situation necessarily resulting from our military occupation of the islands. Among the evidences that our despotism is not benevolent in its results we may take time to notice the following:

First, the legal and judicial system rests upon three main supports: (a) Spanish law; (b) American procedure; (c) legislation by the commission.

We have an English-speaking governing class struggling with a legal system predominantly Spanish, in an attempt to administer justice to a population speaking a score of dialects. Native judges must necessarily be retained in courts of the first instance. This involves the elimination of trial by jury. Moreover, limitations have been thrown about the writ of *habeas corpus*. As a result, "it is a fact that there are now men confined in prisons throughout the archipelago, arrested without warrant and entirely ignorant why they have been detained." "Under Spanish law, officers who detained men in prison more than twenty-four hours without presenting them before a suitable judicial officer and showing cause for their arrest were *ipso facto* guilty of the severely penalized crime of illegal detention."

The second point in the indictment of the legal and judicial system is the servility of the judiciary to the commission. "The truth is," he says, "that in all criminal cases the judiciary has cooperated so closely with the commission as to be practically nothing more than a mere tool in the hands of that body." Appointed as they are, "it would require unusual strength of character for judges to resist the pressure to which they are likely to be subjected. They cannot help recognizing the circumstances under which they were selected, the fact that they receive larger salaries than they could probably get elsewhere, and that certain things are expected of them." "A judiciary, pliant, serviceable, bowing the knee to the executive, has been built up."

Second, the control of public opinion in the Philippines is something to which Americans are not accustomed at home. "It seems that the organs of control are so effective and the forces making for subordination and silence so strong, that they are irresistible." The sources of official information are closed to the public, the aid of the sedition act is invoked to suppress freedom of speech, teachers are cautioned "to exercise such care as the situation demands," "the pulpit and the stage have been subjected either to unofficial or official surveillance," and finally, notwithstanding official assurances that "there is in the islands to-day freedom of speech, of the press, of assemblage and of petition," specific evidence to the contrary is furnished.

This in itself is not so iniquitous as it might seem, unless it has the result of creating distrust and disaffection among the natives. Unhappily, more or less caution, secrecy, surveillance and general inhibition of news relating to the public must be characteristic of the government of a dependency, and the question is not so much in any case whether it exists, as whether it is excessive. Professor Willis leaves no doubt that it does exist. Moreover, the evidence he gives as to its being excessive is sufficient to silence criticism from disinterested sources not on the ground. One could only say that it is possible he does not take into full account the natural difficulties of the situation.

Many other topics are taken up and treated with considerable detail, such as local government, the constabulary, political parties, the church problem, American education in the Philippines, social conditions, economic legislation, exploitation of the Philippines, rural and agricultural conditions, etc. In style it is unusually readable and entertaining.

It is a book which invites investigation, and no doubt it will get it; that too, probably, in no gentle mood at times. Nevertheless, allowing for legitimate differences of opinion upon the fundamental subject of imperialism, the principal questions it raises all the way through are merely questions of *degree*. Hence the effect should be simply that of sane, healthful criticism, whatever asperities it may raise at first. When an author states himself so frankly he should arouse no resentment from those who are equally above board in their own conduct, even if his strictures are severe.

J. E. CONNER.

*Washington, D. C.*

# Parks and Public Playgrounds

## THE RECORD OF A YEAR'S ADVANCE

### A SYMPOSIUM

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#### CHICAGO

BY HUGO S. GROSSER, ESQ., City Statistician, Chicago, Ill.

Although the park system of Chicago is almost as old as the city itself, its growth has in no way kept pace with the growth of the city, and to-day the great city of Chicago, with its area of 190 square miles, has a total park area of only 2,463 acres, a smaller area per capita of the population than that of any other of the larger cities in this country.

Chicago's first park was established in 1839, two years after the incorporation of the city, and consisted of one-half a square on the lake front, extending to Michigan avenue. During the next thirty years additions were made to the park system by the gift of small areas throughout the city, and there were ultimately some forty-four public and private parks in existence when the first systematic plan was inaugurated for the establishment of Chicago's park system. Chicago's parks are not under the jurisdiction of the city government, but are governed by three different park boards, created through acts of the state legislature from 1869 to 1871. The Lincoln Park Commissioners are in charge of Lincoln Park—which had been established by the abolition of a cemetery as early as 1860, while the rest of that park was made from sand wastes and swamps—and the boulevard system and smaller parks on the north side of the city; the West Chicago Park Commissioners rule over the parks on the west side, namely, Douglas, Humboldt and Garfield Parks, while the South Park Commissioners are in charge of the park area on the south side of the city, the largest parks of which are Washington and Jackson Parks. The first two commissions are appointed by the governor of the state, while the South Park Commissioners are elected by the judges of Cook County. These park boards are absolutely independent of any other governing body, and levy their own taxes. For many years it has been sought to do away with this multiplicity of taxing bodies, and in a constitutional amendment adopted by the people in 1904 provision was made for a consolidation, but as yet the state legislature has not passed any law to carry into effect this provision.

Besides the parks controlled by these three park boards, the city of Chicago, through its Department of Public Works, has jurisdiction over some thirty-six small park spaces and triangular plots at street intersections. Some

of these have been transferred to the control of the park boards. The expense for the maintenance and improvement of the so-called "city" parks is met by annual appropriation of the city council. The boulevard system in connection with the chain of parks, which is being extended from year to year, is also in charge of the various park boards, the original cost of construction being defrayed by special assessment on the abutting property, while the cost of their maintenance comes out of the general park and boulevard taxes.

A few years ago Chicago experienced an awakening to its park deficiencies, due to the efforts of the Special Park Commission to obtain small parks and playgrounds in the congested districts of the city. This commission is appointed by the mayor, and consists of nine aldermen and six citizens. By means of a series of bills passed by the General Assembly in 1901, 1903 and 1905, the three park boards mentioned have received authority to issue \$11,000,000 in bonds for various park and playground extension plans. This vast sum is divided among the park boards as follows: Half a million dollars for small parks and playgrounds in the densely populated portions of the north side; one million dollars for the extension of Lincoln Park by reclaiming 215 acres of submerged land along the lake shore; one million dollars for small parks and playgrounds on the west side; two million dollars for the general improvement of the large parks on the west side, which have been allowed to fall into a state of decay through the ruling hand of the politicians, mismanagement and extravagance in keeping a useless pay roll; one million dollars for small parks and playgrounds, not exceeding ten acres, on the south side; three million dollars for the completion of Grant Park on the lake front and the creation of larger parks than ten acres on the south side; two million five hundred dollars for the completion and improvement of, and additions to the larger park system on the south side. Since 1901 fifteen new parks have been acquired, ranging in area from six and a half to three hundred and twenty-two acres, and aggregating seven hundred acres, not included in the area quoted above. These are scattered over the great south side from Twenty-fifth to One Hundred and Thirteenth street, and from Central Park avenue to Lake Michigan. The land has cost one million eight hundred thousand dollars, and the improvements thus far two million five hundred and seventy-five dollars.

The Lincoln Park extension work is in progress, but no start has been made to acquire the small parks on account of indifference on the part of the park board, masked behind legal technicalities. The West Park Board pursued a masterly policy of inaction as to small parks for several years, and when defects were discovered in their act, a new one was passed last winter. With a reconstructed board of business men, a fresh start will be made this winter to get the much needed small parks, after a vote is taken on the bond issue at the November election.

The most interesting side of this park extension on the south side is its social and educational aspect. Each new park has, or will have when finished, as its central feature, a field house or neighborhood center, comprising in each case a well equipped gymnasium for men and boys, another for women and girls, shower and plunge baths for each sex, a reading room, a lunch counter,

two or three small club rooms, and a large assembly hall. Adjacent to each central building are a band stand, with surrounding seats, broad concrete walks, and spaces for roller skating, out-door gymnasiums for men, women and children, all in separate sections, a large swimming pool with showers and dressing-rooms. The public library board has arranged to establish branch libraries in several of these buildings. Each park is also equipped with athletic fields for ball games, a skating area and place for toboggan slides.

These are not the only plans for extending the park system of Chicago, and a far more ambitious scheme is being agitated at present. Last December the Special Park Commission issued an elaborate, illustrated report, suggesting a scheme for a metropolitan, or outer belt park system in city and county, following the scheme of the Boston Metropolitan Park Commission. It is proposed to acquire a chain of city and country park areas, mostly natural wooded lands and banks of rivers and lakes, aggregating 37,000 acres. A bill providing for the organization of a forest preserve district was passed by the last legislature, and the question will be voted upon at the November election. The proposed district comprises nearly all of Cook County. The commission is to be appointed by the governor, and will have authority to issue bonds to the extent of four million three hundred and sixty thousand dollars without a referendum, and thirteen million dollars after getting a referendum vote of the people. The commission will also be authorized to raise about four hundred and twenty-five thousand dollars a year for maintenance.

There are now nine municipal playgrounds—three on each side of the city—in thickly populated districts, which are all in charge of the Special Park Commission. The funds for these playgrounds are obtained from the city council's annual appropriation, or by private contributions of land, money and equipment. In some cases the land had been previously owned by the city, in others the free use had been given for a fixed period, or until the site is sold, so that there is no security of tenure except in three playgrounds. Miscellaneous apparatus is provided for children of all ages, open fields for baseball, football, basket ball, running and jumping; besides cinder tracks, shower bath house and skating ponds, provided at each ground where the area is sufficient. Lack of funds has prevented the city from equipping its playgrounds in the elaborate manner described as to the south side small parks, yet more than one million children and young men and women visited the playgrounds last year. The Merchants' Club has provided a fund each year with which prizes are purchased and awarded to young athletes in competitive sports, and to younger children excelling in raffia weaving and other handiwork during the summer vacation. The city maintains a general director of athletics and gymnastics, who also acts as superintendent, besides a director at each ground, women kindergartners for the children during the summer vacation. Track teams, teams for baseball, football and basket ball are organized among the boys at the various grounds, and high-class games are played with outside teams. The commission provides free uniforms for the baseball and football teams.

Several sites have been secured on the west and north sides of the city for playgrounds, but are waiting for equipment funds. The commission has

just issued an appeal to the public, asking for donations of money and land and setting forth the need for more playgrounds, especially on the west side.

In addition to the municipal playgrounds, there are half a dozen playgrounds conducted as philanthropic enterprises by social settlements and other organizations. The Roman Catholic Church people have also established several playgrounds in connection with their parochial schools.

The question of public baths has, during the last few years, received considerable attention on the part of the city authorities. At present the city has under contract for completion within a few months, or in operation, twelve municipal bath houses, scattered throughout the city in the poorer districts. They are under the control of the Department of Health, as are also three bathing beaches along the lake shore. These municipal bath houses, seven of which were in operation in 1904, were in that year attended by 650,000 persons, and the Department of Health expended for their maintenance and operation the sum of \$23,519.24. A bathing beach is also maintained at Lincoln Park.

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## BUFFALO

BY PROF. A. C. RICHARDSON, Buffalo, N. Y.

Buffalo established its first municipal playground in the summer of 1901, using for that purpose a part of the park system known as The Terrace, which is situated in the midst of a densely populated district downtown. This playground is under the charge of the Park Commissioners, while the others are managed by the Department of Public Works. Three additional playgrounds were established in 1902 and two more in 1903, so that there are now six. Their areas are as follows:

Terrace Park .....	57,600 sq. ft.
Johnson Street .....	73,392 "
Broadway Market .....	72,820 "
Hamburg Canal .....	106,730 "
Bird Avenue .....	45,011 "
Sidway Street .....	46,900 "
Total .....	402,453 "

All these grounds are on city property except that on Sidway street, for which, only a nominal rent is paid, consisting of the current taxes on it. The Bird avenue ground has the great advantage of being located next to a public school, which of course is the ideal location, as the basement of the school furnishes room for the storage of apparatus and for shower baths, which are an indispensable adjunct. Shelter houses have been erected for these purposes on all the other grounds.

The annual appropriation for the maintenance of these grounds is between

\$11,000 and \$12,000, which includes the salaries of two directors for each ground. These twelve directors compose the Playground Association, and meet weekly to file reports of the attendance and games played, and to regulate in general the policy of the playgrounds. There should be, and probably at some time will be, a general director to supervise all the grounds and see that the various employees do their work properly. The grounds are open from about the first of June to some time in November, and the average monthly attendance in 1903-04 was 130,770. For three years past an annual inter-playground meet, known as the Buffalo Civic Games has been held, at which gold, silver and bronze medals were awarded to the successful competitors; but this year each playground had its own separate meet instead.

The equipment of the Bird Avenue ground, which is typical of them all and will serve to indicate the nature of the games played, is as follows: Cinder track, horizontal bars, trapeze, swings (16), testers, jumping ground, basket-ball courts (2), hand-ball court, sand boxes, babies' swings and May-poles.

The following extract from a report made to the Charity Organization Society by its Committee on Municipal Playgrounds in 1903, will serve to indicate the nature of the effect produced upon the immediate neighborhood by the opening of a playground. The conversations quoted are vouched for as actual occurrences:

"The improvement in playground districts has been marked. The immediate neighbors, usually at first hostile, soon became warm friends of the playground. A sense of community of interest grows up. On returning a stolen bat a small boy replied to the director's questioning, 'Well, you see, Mister, I thought I was stealing it from you, but when I thought it over I knowed it belonged to all the boys as well as me; dat's why I brought it back.' Crap-shooting, never permitted on the playgrounds, has nearly disappeared from their vicinity. Large numbers of boys have been induced by the directors to quit cigarette smoking, as not conducive to athletic attainments. Two years ago a prominent west-side woman, who owned some houses on the east side, found on inspecting her property, that the windows were not broken as they had been other years. She made inquiry as to the reason for the change, and learned that a playground had shortly before been established in the neighborhood. Since then she has made strong pleas for playgrounds before the aldermen. A boy on the playground pointing to a portly policeman, said, 'Dere goes old Battles, de cop. He won't arrest us any more now, as youse's got a playground for us kids. De playground is good for him as well as us.' 'How's that,' asked the director. 'Why can't ye see, old Battles used to be thin as er match when he chased us kids, but now he's big as er barrel 'cause he ain't got no work to do.'

#### *Public Baths.*

The following extracts from official reports of the Health Department furnish a complete history of the municipal baths of Buffalo. (Monthly Report, April, 1900):



"In the winter of 1894-95, a sub-committee of the Buffalo Charity Organization Society, which, through personal investigation of the tenement house districts, became familiar with the fundamental principles which underlie the need of poor families that lack home conveniences, and of the working classes that require bathing facilities as a common decency of life, took under consideration the question of establishing a free municipal bath house. This committee was composed of Dr. John H. Pryor, William A. Douglas, and Williams Lansing, assisted by the Health Commissioner. Its members, on more than one occasion, aided and sustained those entrusted with the administration of the laws affecting public health, and through the united efforts of this committee and the Department of Health, the proposition was brought before the Common Council, and advanced to a stage where the establishment of a free public bath by the municipality was an assured fact, and just as the provisions became favorable, and the necessary point attained, the State Legislature enacted the subjoined measure entitled 'An Act to Establish Free Public Baths in Cities, Villages and Towns.'"

Chapter 351—Laws of New York State, 1895. Section 1.—"All cities of the first and second class shall establish and maintain such number of public baths as the local board of health may determine to be necessary; each bath shall be kept open not less than fourteen hours for each day, and both hot and cold water shall be provided. The erection and maintenance of river or ocean baths shall not be deemed a compliance with the requirements of this section. Any city, village or town having less than 50,000 inhabitants may establish and maintain free public baths, and any city, village or town may loan its credit or may appropriate of its funds for the purpose of establishing such free public baths."

"The constitution of the State of New York recognizes cities of the first class as having a population of 250,000 or over; cities of the second class 50,000 or more, but less than 250,000; and cities of the third class less than 50,000. Money was now appropriated, plans were ordered, site selected, contracts let, and ordinances providing for attendants and management passed, so that by January 1, 1897, the first absolutely free municipal bath house in the world was established, completed in every detail and put into full and successful operation. It is officially known as Public Bath House No. 1. It is not only free, but open on every day in the year from 7 a. m. to 9 p. m., excepting on Sundays and holidays, when those requiring a bath must observe the hours from 7 to 10 a. m. There is absolutely no charge for its use, no restrictive classification of users, soap and towels are gratuitous, with an unlimited supply of water, both hot and cold, the only restriction imposed being, necessarily, one of time, namely, that bathers cannot occupy an apartment longer than twenty minutes. Additionally, facilities are afforded to wash and dry underclothing, so that the equipment of the establishment sends forth those which patronize it cleansed both in person and clothing. This is at variance with the customs that prevail at the European municipal bath houses where, in every instance, for equal bathing facilities, a fee is demanded.

"This bath is located in Police Precinct No. 1, which has an area of only

0.86 square miles or about 2 per cent. of the entire area of Buffalo, yet, according to the police census of 1895, it has a population of 20,587 or six per cent. of the entire population, and this, notwithstanding the fact that a very large portion of the precinct is taken up by railroad tracks, the Terrace, canal docks, depots, public buildings, stores and manufacturing establishments.

TABLE OF BATHS GIVEN.

YEAR.	1897.	1898.	1899.	1900.	1901.	1902.	1903.	1904.
Bath House No. 1 .. Opened Jan. 1, 1897.	76,873	79,381	81,793	86,795	89,112	77,675	78,343	77,031
Bath House No. 2 .. Opened Jan. 2, 1901.	.....	.....	.....	.....	145,143	115,975	108,281	117,523

## COST AND MAINTENANCE—PUBLIC BATH HOUSES NOS. 1 AND 2.

	No. 1.	No. 2.
Cost of land .....	\$6,500.00	\$2,600.00
Cost of building .....	8,000.00	15,000.19
Cost of equipment .....	300.00	563.40
	<u>\$14,800.00</u>	<u>\$18,163.59</u>
Salary of keeper .....	\$500.00	\$500.00
Salary of matron .....	400.00	400.00
Salary of assistant keeper .....	480.00	480.00
Salary of firemen, two, each \$600 .....	.....	1,200.00
Coal and wood .....	<sup>1</sup> 1,100.00	2,050.03
Furnishing and laundrying towels .....	380.79	567.52
Soap .....	233.22	275.52
Incidentals .....	21.22	119.31
	<u>\$3,115.23</u>	<u>\$5,592.38</u>
Credit by waste soap returned .....	33.06	32.58
	<u>\$3,082.17</u>	<u>\$5,559.80</u>

The popularity of these aids to sanitation is very evident from the tables of baths given. In fact, so popular are they, that they are inadequate to fill the demands made upon them, and provision should be made, in the very near future, for at least one additional bath house."

The facilities for *out-door* bathing in summer in Buffalo are not good. Owing to shortsightedness in the past the lake shore is now accessible in but

<sup>1</sup> Estimated steam furnished No. 1 by Municipal Building.

very few spots, and these can be reached only after crossing railroad tracks. At two of them, however, the city maintains cheap wooden dressing-rooms under the charge of a caretaker, who rents soap, towels and bathing trunks for a small fee. The contemplated changes in the water supply system, however, include plans for an outdoor swimming pool similar to that now in use at Erie, Pa. But it is probable that this will not be constructed for several years.

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### WASHINGTON, D. C.

By GEORGE S. WILSON, Esq., Secretary Board of Charities of the District of Columbia.

There is no material change in the park system proper in the District of Columbia since my notes of last year. Considerable progress has been made, however, in the effort to develop public playgrounds in the small parks and in the yards of the public school buildings. For three years the effort to conduct public playgrounds was carried on by a volunteer committee without aid from the public treasury. Last year official endorsement was given to the movement to the extent of an appropriation of \$3,500—\$1,500 for the equipment of public playgrounds in school yards and \$2,000 for playgrounds not connected with public schools. The major portion of the burden, however, was still borne by private contributions.

The playground movement was first started in Washington in the summer of 1903, and during that summer six playgrounds were maintained; in 1904 eleven were in operation, and in 1905 nineteen were maintained. Of the nineteen maintained during the past year eleven were in public school yards and eight on public reservations and vacant lots. A trained supervisor, Dr. Henry S. Curtis, of New York City, was employed for six months to direct the work. His time was occupied largely in selecting and training kindergartners and athletic directors, whom the committee found it necessary to provide for the proper supervision of the work. The committee seems now to be convinced that public playgrounds cannot be made successful without competent directors. They look upon a playground without a director as being almost as bad as a school without a teacher.

Much greater interest was shown in the movement during the past summer than during the preceding years. Athletic contests were held throughout the summer at the various grounds and between representatives from the different grounds, and at the end of the season, on September 8 and 9, field days were held. The successful contestants in these final events received medals,—gold medals for first prizes, silver medals for second, and bronze medals for third. A banner was given to each winning team, and a special prize banner, the gift of one of the local newspapers, was presented to the team winning the largest total number of points. Separate playgrounds were conducted for white and for colored children, and separate field days were held. The local committee now feels that the importance of the playground movement has been sufficiently demonstrated to warrant generous appro-

priation of public funds for its maintenance, and an effort will be made this winter to secure from Congress a larger appropriation for the maintenance of the work. An effort will also be made to secure funds to purchase and equip one small park playground. It is the policy of the committee to urge upon the city the acquisition of small parks to be used as playgrounds in the various crowded sections, and they are urging an appropriation this winter for the first of such playgrounds, which they hope to make a model and use as an argument for the acquirement of others.

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### SEATTLE

By PROF. J. ALLEN SMITH, University of Washington, Seattle.

The first step looking toward the acquisition of land for park purposes was taken by the municipal authorities of Seattle in 1884. Little was done, however, during the following decade, and not until about 1897 did the need for public parks begin to receive serious consideration. Since this date the city has purchased three tracts of land—Woodland Park, containing 196 acres; Washington Park, with an area of 128 acres, and City Park, of 125 acres. Woodland Park, situated in the northern part of the city, is a beautiful piece of property, having a frontage of over half a mile on Green Lake. Washington Park, which is situated in the east central part of the city, extends for more than a mile along the shore of Lake Washington. City Park is just outside of the city limits, and is at present unimproved. The municipal authorities have also acquired through gift or purchase several smaller pieces of property in various parts of the city.

A plan for the improvement and extension of the present park system, prepared by a well-known landscape architect of Massachusetts, is now being carried out under the direction of the municipal board of park commissioners. The plan adopted contemplates the preservation of some remnants of the original forest which fortunately have not been destroyed. It will also utilize the unusual advantages which Seattle possesses in the abundance, variety and magnificence of its views of lake, sound and snow-capped mountains.

The campus of the University of Washington should also be mentioned in connection with the Seattle park system. It contains 355 acres, a large portion of which is in the original forest state. It lies between Lake Washington and Lake Union, having a water frontage of more than a mile on the former and about a quarter of a mile on the latter. It is within the city limits, and, though belonging to the state, is virtually a part of the municipal park system.

During the last two or three years there has been a marked growth of sentiment in favor of providing suitable means of recreation for the pupils of the public schools. Several of the schools now have teeters, swings, horizontal bars, basket ball and tennis courts, etc. The scheme of recreation and amusement also includes a garden on or near the school grounds, which is cared for by the children.

**DULUTH**

By W. G. JOERNS, ESQ., Duluth, Minn.

In the earlier days Duluth was provided with only such public parks as had been reserved and dedicated to public use in the several plats of the city's subdivisions. These were mostly in the nature of public squares, except a few larger dedications in suburban plats, and had remained almost wholly unimproved. It was in the latter eighties that a broader scope and systematic development of Duluth's park system was agitated and inaugurated. The prime figure in this movement was Mr. W. K. Rogers, who was better known to the general public as the one-time private secretary of President Hayes. Mr. Rogers had come to Duluth and took a deep interest in its development. He recognized its wonderful natural beauties and the unusual possibilities for the development of a substantial and beautiful park system. He was the leader and the hardest worker in the movement for the creation of this park system, and to his enthusiasm and great effort was largely due the fact that the system, as it exists to-day, was finally established. Mr. Rogers became the first president of the first park board of Duluth.

Six hundred feet above the level of Lake Superior, along the brow of the hills surrounding Duluth, the remains of an ancient beach form a natural roadway which connects numerous small water courses and deep gorges and ravines, and all, extending over a distance of some seven miles or more, have been acquired by the city and are now a part of the park system of Duluth, and form one of the most beautiful natural drives in the world. The city expended in the purchase and improvement of this particular part of its park system approximately three hundred thousand dollars, and this sum forms a part of its present bonded indebtedness.

The control of the parks and parkways of the city is vested in a Board of Park Commissioners of five members, who are appointed by the Mayor, subject to confirmation by the District Court. The president of the park board is ex-officio a member of the City Conference Committee. The members serve without pay. The park fund is provided by annual tax levy and has been running at about \$10,000 a year. An increase of approximately \$5,000 was made for the coming year to provide means for the acquirement of additional park property.

The public parks of Duluth are well distributed throughout the different sections of the city, are well taken care of and are extensively used by the public. In the improvement of the same the aim has been observed to retain, as much as possible, the natural scenic beauties. Some of the smaller squares have been made into beautiful flower gardens. The park board has also taken charge of the planting of trees in public streets, under direction of the Common Council, and in the course of the past ten years the general beauty of the city has been thereby much improved. Some of the public squares have been devoted to recreation purposes as playgrounds, and in winter as skating rinks; but Duluth has as yet neither public baths nor gymnasium.

## II. DEPARTMENT OF PHILANTHROPY, CHARITIES AND SOCIAL PROBLEMS

The New York Society for the Prevention of Cruelty to Children was organized in 1874, and at once found itself *alone* in a field of immense opportunity. It became necessary for it to frame laws to cover existing conditions and with a view to the future; to get the good will and approval of legislators and of public authorities, a matter not always easily brought about, as those connected with struggling institutions doing a public work well know; and to assert itself in a manner intended to bring about not only confidence in it, but encouragement in the organization of similar institutions elsewhere. These things it did, with the result that opinions and decisions of the highest courts to-day lend sanction and approval to its efforts on behalf of suffering childhood. The trials through which it passed in its early years, hard to bear as they were, only tended to fit it for the greater work yet to come, and of which not the least indication was then to be had.

There are to-day, in the United States alone, nearly four hundred societies linked together for the prevention of cruelty to children, every one of them organized since the work was begun in New York and all working under laws based upon those of this state. Every important city in Europe has its society and India and Australia are not without representation.

It was the privilege of the New York Society to be sponsor to the first laws of the empire state regulating the hours of child labor; and, that "child labor" represents but 2 per cent. of the working population of the Metropolis is perhaps due more to that early foresight than to any other one thing. It also drafted the legislative enactments separating children under sixteen years of age from adults charged with crime.

The parole or probation system now so generally in vogue had its birth in the old method of suspending sentence upon a child convicted of crime and placing him in the legal custody of a clergyman, a school teacher or other responsible citizen, during good behavior. In a single year hundreds of children were so released, and many of them upon my personal application. The number returned to court for violating the provisions of the terms of their release was proportionate with the number of returns for what is now called "violation of parole." The present method, however, is systematized to an extent that makes it one of the most important branches of the society's work. The writer is the chief probation officer for the boroughs of Manhattan and The Bronx and, as such, has personal direction of the probation work authorized by the justices of the criminal courts within that jurisdiction. The average number of boys and girls on probation is two hundred. These are regularly visited by trained special officers, deputized to act as probation officers, who acquaint themselves with the child, its characteristics, surroundings and

general conditions. The findings in all cases are presented in detail to the courts, with such recommendations or suggestions as each requires.

The recent, though quite natural, spread of probation all over the country and to foreign lands has given rise to the impression that it is an entirely new departure, whereas magistrates and justices of the criminal courts of New York have been releasing girls and boys, convicted of crime, on probation, always explaining that it was during their good behavior, for a period of over twenty years.

The New York Children's Court, technically known as "The Court of Special Sessions of the First Division, Children's Part," was opened September 2, 1902, by the authority of Chapter 590 of the Laws of 1902, and is authorized to try, and dispose of, all cases involving charges against children under sixteen years of age, except those in which the charge is a capital offense, or where the child is taken into custody jointly charged with crime with a person over that age. That law was drafted by one of the most eminent authorities on the bench, the Hon. Joseph M. Deuel, who for many years had studied and written upon the subject of juvenile crime, its causes and effects.

Our Juvenile Court has from the beginning been presided over by a succession of able men, who have lent dignity and distinction to its deliberations. It is the first Children's Court in the country whose hearings are held in a detached building, separate and apart from any other criminal court, and where cases of children *under sixteen years of age* exclusively are heard. There are many reasons why it would be impracticable to install such a court in a separate building in small communities, the chief one being that most of the children's courts outside of New York City hold but one session a week, and that in a court-room used for the hearing of all cases, adult and minor, even on the day set for the "children's court," the latter being held after the others are disposed of. There have been such "children's courts" in New York since 1892, when the legislature of this state passed laws separating children from adults charged with crime, and provided for their examination in criminal courts of inferior jurisdiction only after all persons not directly involved in the case being heard were ordered out of the room. There were seven such courts, one in every court district, and every one had its daily quota of children's cases. Most of the juvenile courts throughout the country to-day are following that erstwhile admirable plan. The necessary atmosphere of an exclusive children's court is thus preserved in exactly the same manner as intended by its incorporation.

The New York Society for the Prevention of Cruelty to Children is represented by officers at every session of the court for the boroughs of Manhattan and The Bronx. Its records are at once accessible to the presiding justice and, in numerous instances, suggest dispositions which, without them, would of necessity have to be deferred several days, pending lengthy investigations.

Every child arrested in old New York for any offense whatever is at once, as required by law, taken to the rooms of the society, if after court hours, and there detained until the next session of the Children's Court, for a hearing. To prevent overcrowding of the society's dormitories, where a

thousand children are sheltered every month, and to provide for the release of children arrested for minor offenses, such as violating corporation ordinances, or the newsboy or child labor law or for disorderly conduct, a law was passed two years ago by which a parent or guardian may sign a "personal recognizance," without giving bail security, for the child's production at the next session of the court. This also prevents the unnecessary and humiliating separation of petty offenders from their homes while judgment is pending. Our court is fortunate in having in daily attendance volunteer workers of the three great religions, who render a moral support of too high a degree to permit of estimate. Their work is one of personal service, and it produces results far more satisfactory, both to the court and to the child, than any mere official decision ever could. These workers form the long-lost link between impartial justice, however merciful it may be, and the offending child. Their work is often done in assisting the chief probation officer, whose volunteer deputies they become on request.

Societies for the prevention of cruelty to children, as such, should not be mere alms-giving organizations. Such charity as they dispense should be given in connection with their work as agents of the law, in the enforcement of the criminal laws under which they operate. The opinion was long held by certain charitable societies that societies for the prevention of cruelty to children were charitable institutions, although authorized to appoint special officers with police powers, and to enforce special laws. The New York Society has had that much mooted question settled, on appeal, by the highest court in the state. The Court of Appeals has decided (*The People of the State of New York ex rel. the State Board of Charities, Respondent, vs. The New York Society for the Prevention of Cruelty to Children*, 161 N. Y. R. 233; 162 N. Y. R. 429) that *societies for the prevention of cruelty to children are sub-governmental agencies, and in reality branches of the courts, the district attorney's office and the police department; that they are "quasi public corporations, authorized for the greater convenience and certainty of accomplishing governmental work."* Their value as aids to the local government is at once apparent, in that they are branches of those various departments, and responsible to each for the work they perform. Such societies in New York State are now incorporated under Article V of the Membership Corporation Law (Laws of 1895, Chapter 559, Sections 70, 71 and 72), which amended Chapter 130, Laws of 1875, under which the first society was incorporated.

Should a society whose investigation of cases involving the social and moral welfare of half a million of children do anything more than state the facts to justify its existence?

Some two hundred thousand case records are on file in the vaults of the parent society, and its books show seventy thousand convictions for offenses against children. The society collects the evidence and prepares the "Brief for the People" in every criminal prosecution instituted by it, and has yet to be questioned by the chief prosecuting attorney of the county, whose deputies prosecute offenders against children on the society's Brief, relying entirely upon its investigations by expert officers. The number of convictions is the



justification of such a course. And in addition to prosecuting hundreds of criminals, its rooms shelter and it feeds and clothes ten thousand children a year. One hundred thousand children have been rescued and placed in homes away from improper influences. Men and women of standing not infrequently acknowledge that their respectability is due entirely to their early removal by the society from degrading environment.

The sub-joined table shows something of the growth of the work:

Year.	Cases investigated.	Homes found.	Prosecutions in cases of criminal assault, unnatural offenses and abduction.	Prosecution of all offenses.	Convictions of all offenses.	Penalties imposed, terms of imprisonment.	Children involved.	Adults involved.
1875	300	72	...	197	...	...	...	...
1880	1,577	855	...	604	569	...	...	...
1885	4,638	2,979	...	1,790	1,729	...	...	...
1890	7,477	3,336	...	2,590	2,553	...	...	...
1895	8,523	5,350	109	3,301	3,249	147 yrs.	13,108	5,695
1900	9,146	6,092	163	2,060	1,875	163 yrs.	26,460	25,822
1905*	15,000	10,000	200	9,000	7,500	416 yrs.	45,000	35,000

\* Estimated.

The organization of the first society was due to the accidental discovery, in 1874, of a case of atrocious cruelty to a young orphan girl. Her rescue brought about a revolution in the "humane" laws of the world. A generation of this work, with its marvelous growth to every corner of the globe, and the result of its efforts for children, make one wonder, not so much at the late date of its beginning, as at what the future may have in store for it, for any work but a generation old cannot be said to be more than well begun.<sup>1</sup>

**The National Conference of Charities and Corrections**, which was held at Portland, Ore., in July, was made notable by the discussion of three topics which had hitherto received comparatively little attention from the Conference, namely, the warfare against tuberculosis, immigration and the broad treatment of medical charities, from the administrative standpoint. Dr. E. T. Devine, who was chairman of the Committee on Tuberculosis, asserted that from the national standpoint, comparatively little is being done for advanced cases, and that practically nothing has been done for tuberculosis children, except to show by modest experiment, the marvelous results which can be obtained if suitable sanatoria are established. He called attention to the failure to segregate and specially treat consumptives in hospitals for the insane, in prisons, almshouses, reformatories and other institutions. Emphasis was laid upon the importance of providing special liberal diet in caring for consumptives in their own homes, as a substitute for the sanitarium. Dr. Woods Hutchinson, of Portland, who advocated the open-air sanitarium, declared that

<sup>1</sup> Contributed by E. Fellows Jenkins, Secretary and Superintendent, New York Society for Prevention of Cruelty to Children.

the tent is the ideal shelter, because it gives the maximum of fresh air with a minimum of expense.

Medical charities were discussed under the direction of the committee on the care of the sick, of which Nathan Bijur, of New York, was chairman. His paper on the "Ambulance System of the United States," is very comprehensive. In this section of the Conference, a notable paper was read by Dr. Walter Lindley, of Los Angeles, on the care of the sick in hospitals and in their homes, in which a plea was made for the establishment of hospitals for the independent, self-respecting working people, who can afford to pay a dollar a day for their care, and who do not want to be objects of charity.

Considerable friction developed between the East and the West, in the discussion of the immigration question. The Eastern men took the broad ground that there should be no check to the admission of healthy non-criminal persons from any civilized country, but that steps must be taken to provide for their distribution over a wider area, and that the difficulties of keeping out the unhealthy, the pauper and the criminal classes, are not inherent, but can be regulated by proper administration. To the surprise of the Conference, the secretary of the Californian State Board of Charities, insisted that there was an abundance of laborers in the West, particularly on the Pacific coast, and that the only class which the Pacific States are disposed to welcome, is the class of settlers with means, who can themselves employ labor and develop the land. The author of this account of the Conference, speaking from the standpoint of actual knowledge and experience of farming conditions in California, Oregon and Washington, challenged this statement, and offered testimony in contradiction.

Perhaps the most popular section was that on juvenile courts, which was in charge of Judge Ben. B. Lindsey, of Denver. The movement is still sufficiently new to be interesting, and much enthusiasm was aroused locally by the presentation of the subject by such men as Judge Lindsey, Judge J. W. Mack, of Chicago, and Judge Willis Brown, of Salt Lake. So far the Conference has limited its discussion of this topic and that of probation, to the methods which have been adopted in cities. The men who have done such good work in this connection, do not seem to have faced the problem of how to handle delinquent children in the rural districts. At any rate, no attempt was made to deal with this most important phase of the subject.

The 1906 Conference will be held in Philadelphia in May, under the presidency of Dr. E. T. Devine, and it is expected that the attendance will be large and thoroughly representative, and that it will mark a distinct step in advance in the scientific discussion of all forms of social welfare work.<sup>2</sup>

**Crippled Children's Driving Fund.**—This year has seen in New York the establishment of a Crippled Children's Driving Fund, which has for its object the giving to crippled and convalescent children, from hospitals and tenement homes, weekly rides to Central Park. Large four-seated carriages are used and the parties begun April 1st will continue in increasing numbers to November 1st. For the purpose of organizing these parties, the children are visited in their homes and a brief record is made of each child's disease; its cause,

<sup>2</sup> Contributed by Mr. Hugh F. Fox.

duration and treatment; names of parents and their nationality; number of rooms, their condition and the number of adults and children occupying them. An effort also is made to ascertain where and with how many persons the crippled member of the family sleeps. In some instances, mothers state with great pride that the child sleeps alone, and in the "front room"—which means that the gospel of fresh air preached by the Board of Health, dispensary physician, visiting nurse, relief visitor and the daily paper is beginning to be appreciated. It is a lamentable fact that so few hospitals have yet applied the fresh air treatment which many of their physicians recommend.

Proper housing conditions and cleanliness in the homes will reduce to a minimum the crippling disease. It is one of the offices of the Crippled Children's Driving Fund in its friendly relation with families where there may be one, two or three crippled children to trace with the mother the origin of her child's disease; show her how she can help to arrest it, and prevent similar suffering for other members of her family. With the co-operation of hospitals, dispensaries, schools, settlements, churches and relief societies a complete census of crippled children in New York will be made by the Crippled Children's Driving Fund which will then be prepared to add to its office of *prevention*, one of *arresting* and *curing*. Records will contain sufficient data to show the amount of provision necessary for proper treatment of the disease of a vast majority of the crippled children (tuberculosis of the bones) the most effective treatment being that of salt air, as proved at the seaside sanatoria of Italy, France and Germany and at the one established at Coney Island, in 1904, by the New York Association for Improving the Condition of the Poor.

The directors of the Driving Fund are confident that if the crippled children are taught thoroughly by their weekly pleasure drives the medicinal effect of the air, they will create a demand for fresh air in their hospitals and homes that cannot be ignored.\*

**London's Unemployed.**—The agitation in regard to London's unemployed is going vigorously on. The Prime Minister is receiving frequent letters asking for information in regard to the Royal Commission which it is proposed to appoint to inquire into the subject, and when it is to be appointed. English people are greatly incensed at the Royal Commissioners not having been appointed as yet, and Mr. Balfour promises that it will be shortly done. Major Coates, M. P., says that the question is growing and is of constantly increasing importance and one that is difficult and perplexing. The poor classes of Englishmen do not want charity, they want employment for their labor, which is their only asset. This asset is a national one, and leading men of all classes, creeds and political opinions appear to be uniting in endeavoring to solve this question. "What we really want is an improvement in trade and then employment would be more diffused."

**The English Housing Problem.**—That the English people are thoroughly aroused to the housing problem is demonstrated by the number of articles that are found in the journals of London. A most interesting meeting on this subject has been held at Letchworth, where the rural housing problem was

\* Contributed by Edna Gilbert Meeker, Superintendent.

discussed by two hundred delegates from fifty rural district councils who had travelled to the city from all parts of England. Twenty-eight counties were represented. The object of the meeting was clearly stated by the chairman, Mr. Alderman W. Thompson, of Richmond, Surrey, who stated that the founders of the exhibition of cheap cottages demonstrated that it was possible in the rural districts to erect cottages at a much less cost than those which had been put up as model cottages by large landowners. The cost of cottages built by the large landowners was \$1,000 to \$1,500 apiece, but the very cheapest, those that were erected in Norfolk, cost \$1,600 a pair. It was clearly brought out that the cost of a number of cottages which had been built was \$750 and they clearly demonstrated the possibility of erecting cottages with three good bedrooms and two living rooms and all the necessary and in some cases luxurious fittings for under \$1,000. In stating this sum the chairman said that it did not include any profit for the builders nor the architects' fees, nor a bath, nor the fencing. To cover this an extra 25 per cent. would have to be added to the price.

Mr. R. Winfrey, of Lincolnshire, stated that in that county they had made very material progress in the direction of getting men "back to the land." They had put two hundred tenants on one thousand acres of land, but the great difficulty was to find suitable houses. Many men were bringing up large families with only two bedrooms, under conditions which did not allow of common decency. He also stated that he knew of a number of young men who were desirous of marrying, but were debarred on account of not being able to get houses. It was clearly brought out by Miss Constance Cochrane, of the Housing and Sanitation Association, that it was important to ascertain from the agricultural laborers themselves what would be acceptable to them, what they wanted for a cottage. She said she had personally canvassed the views of fifty families in seven villages. Out of the fifty interviewed, forty-seven families asked that the cottages might have three bedrooms. They clamored for these above everything else. Very few expressed a desire for a bath, saying they were perfectly satisfied with the tub. Everyone wanted chimneys that did not smoke.

Mr. W. F. Craies, secretary to the Mansion House Council on Dwellings of the Poor, said that in his opinion many of the cottages that had been built were more suited to a week end tenant than to an agricultural laborer. He agreed with the last speaker that it would be wise to have a gathering of agricultural laborers in each county and to hear their personal views on the cottages that they desire. He said that there was great danger in districts near large towns of laborers being sacrificed to the week end tenant.

A delegate from Chipperfield, Hertfordshire district council, declared that in his village there was not one cottage with three bedrooms.

The chairman said that in presenting a resolution emphasizing the desirability of rural district councils, vigorously using the power they already possessed under the housing act, we were not to lose sight of the fact that councils would never get proper laws in force until they did their duty as builders of houses themselves.

**The International Prison Conference at Buda-Pesth, Hungary**, opened on the 3d of September, and twenty-three countries were represented by commissioners and delegates: America, Austria, Bade, Bavaria, Belgium, Bulgaria, Cuba, France, Great Britain and Ireland, Greece, Hungary, Japan, Italy, Mexico, Norway, Pays-Bas, Roumania, Russia, Finland, Saxe, Serbia, Suede, Switzerland. There were ten delegates from the United States present. The first meeting was held in the Salle d'honneur du Palais de l'Academie des Sciences.

His Imperial Highness, the Royal Archduke Joseph, received the credentials of the delegates, and welcomed the Conference in the name of the King of Hungary (Emperor of Austria). His Excellency, M. B. Lanyi, Minister of Justice of Hungary, presided over the Conference. A reception was given in the Castle of Archduke Joseph on the evening of September 3d, and the delegates were treated in the most cordial manner by Prince Joseph and the Hungarian Ministers.

On the morning of September 4th the secretary read the names of the vice-presidents and under secretaries. Dr. Louis Gruber, of Buda-Pesth, was made secretary. The various reports that had been made to the congress were summarized by M. Bela de Balas as follows:

I. The moral classification of prisoners is necessary.

II. The first class should contain the worst offenders, those recognized as such from the time of their arrival at the penitentiary or during their detention.

III. A special class should be organized for youthful offenders not absolutely bad. It should be incumbent upon all the authorities who come into contact with the prisoners to give a faithful account of them. The character of the condemned person should always be a matter of special study during the time of their incarceration.

IV. The remainder of the prisoners should be divided into three divisions as follows:

(a) Those whose conduct is exemplary.

(b) Those whose conduct is good.

(c) Those whose conduct is doubtful.

Although the treatment of prisoners should always tend to their improvement, the means used must differ in accordance with the requirements of each class. The *régime* should be more severe for the worst cases, while the patronage, extended to the others, more especially to the young offenders, should be of such a nature as to stand them in good stead at the time of their release.

After a long and animated discussion, the conclusions as presented were adopted, and made part of the proceedings.

A meeting of the third section, of which Mr. Samuel Barrows was president, discussed the following questions, which had been presented by Dr. Kuthy, co-reporter:

I. The principles of construction and installation of a modern establishment should be exactly formulated by a commission of experts appointed thereto by the International Congress.

II. A committee elected by the members of the congress should be entrusted with the careful regulation of all the hygienic measures taken by the penitentiary establishments.

III. A modern penitentiary establishment should be provided with a special division for temporary isolation, and with good accommodation for the sick.

This resolution was adopted unanimously, and Mr. Roger Troussel, as reporter of the section, was asked to lay it before the congress.

The following resolutions were introduced by M. E. de Barlogh, discussed at a general meeting, and adopted:

I. (a) The congress is of opinion that the destitute and deserted children of prisoners, should in the first place be the charge of the benevolent societies, and only in the second place of the community, the district, the department or any other administrative authority.

(b) Nevertheless it is the duty of the state to look after all the indigent and morally neglected children of prisoners, whenever the authorities know that the benevolent societies have not taken charge of them, or do not take proper measures to counteract their moral degradation; or if the community, the district, the department or any other administrative society do not properly discharge their duty; in short, if it appears from the reports made to the state authorities, that such children cannot be adequately provided for by private institutions or societies.

A proposition offered by Mr. Dreyfuss and seconded by the co-reporter was adopted to the effect that:

When there are no blood relations it is the duty of the state to protect and to educate the destitute children of prisoners, with the concurrence of the local administrations and the assistance of private persons and charitable societies.

Several public lectures were given between the sessions of the sections upon the following subjects: Juvenile Criminals, The Present State of Prison Discipline, The Mathematical and Statistical Bases of Criminality, and The Struggle Against the Criminality of Juvenile Delinquents in the United States of America, by Hon. Samuel Barrows, commissioner for the United States. The lecture delivered by M. de Wlassic gave an account of the progress which had been made in Hungary in the management of its penal institutions.

M. A. Urbye, procuror general, etc., at the University of Christiania, gave a lecture upon the Norwegian penal systems.

Question I considered by Section II of the Conference was: "What are the best means for effecting a moral classification of prisoners and what may be the consequences of such classification?" The following report on this question was made by Dr. Curti, director of the penitentiary at Regensburg, Zurich:

"The best way to arrive at an exact and moral classification of prisoners, would be by a system of rational and progressive education. Such a system should reckon with human nature with all its weakness. It should take account of the individuality of the accused, and work without prejudice on the broad principles of justice and impartiality.

"The fundamental principle of moral elevation and judicious classification is intimately connected with the principle of separate confinement. Every condemned person should, at the commencement of his term of penance, be kept isolated, day and night, and should be allowed no intercourse whatever with his fellow prisoners. He should be left to his own reflections and the remorse of his conscience; the silence of the cell, for this isolation will induce him to consider the consequences of his offence. This process of reflection should not be interrupted by any occupation of a distracting nature. Only the functionaries of the establishment, and more particularly the director and the chaplain are called upon, in this first stage, to exercise a mediatory and corrective influence upon the prisoner. They should endeavor to calm the storm that rages within him, evoke in him an exact understanding of the position in which he is placed in consequence of his crime, and provoke in him good and holy resolutions. Good and salutary literature will have a beneficial influence upon him. Correspondence between him and his relations might also be permitted on condition that this be carefully controlled.

"For young criminals school attendance would be profitable. For all, young and old, the attendance at public worship should be made obligatory, and the services should include music. There might well be special practice in singing. On Sunday afternoons the prisoners might be suitably entertained and instructed by conversations and lectures on history and geography.

"The duration of this first stage of the term of punishment should be sufficiently long for a real, sincere and lasting change for the better to take place in the condemned person. When the staff in charge of the establishment has become convinced that such is the case, the prisoner should be moved into a higher class, or rather into a second stage. He might then be allowed a few more privileges. The solitary confinement might be limited to the night only; in the day time the prisoner might be permitted to work in company with his fellows; the work assigned to him should also serve to develop his intellect. It should always be of such a nature as to render him capable, through the knowledge and skill thus obtained, of earning an honest living when he leaves the house of detention. Correspondence with relatives and also the visits he is entitled to receive, might also then be more frequent. His pay should also be increased, and he should be encouraged to use it to procure useful books, drawing materials, or to devote it wholly or partially to relieve the need of those belonging to him. From this second class might be recruited those appointed to undertake the housework of the establishment, and in whom therefore a certain amount of confidence must be placed. To the prisoners in this class might also be entrusted the work of the farm and dairy, and of the field and the kitchen-garden. They might also be allowed to adorn their cells with photographs of relations, flowers, or to keep a singing bird.

"The favors extended to the prisoners of the second class are increased for those in the third class. They are entitled to see their friends once a month and to receive letters once in four weeks. Their pay is also increased, but can never be used in any of these classes, to procure for themselves extra food and drink. Tobacco and snuff are always strictly prohibited.

"The fourth class, the highest, constitutes a kind of conditional liberty. This can only be granted to the non-habituals or to those who by rising from one class into another, have never given cause for complaint; who have proved that their conversion is serious and that they may safely be allowed a conditional liberty, previous to being restored to society."

Dr. Curti summarizes his report as follows:

"1. The best means for organizing an exact and moral classification of prisoners, is a system of rational and progressive education.

"2. The practical outcome of such classification would be: (a) for the first stage, solitary confinement day and night; (b) for the second stage, work in common, and solitary confinement at night; (c) third stage, as a transition towards complete liberty, conditional liberty."

Question II discussed by Section II of the congress was: "Can labor be enforced upon prisoners whose sentence on former occasions was merely privation of liberty? If labor cannot be so enforced, should not the deduction of preventive detention from the term of penal service be made subject to a voluntary acceptance of labor during detention?" This question was reported upon as follows by M. Jules Veillier, director of the House of Correction at Fresnes, Seine:

"Every one is agreed, in theory at least, that deprivation of liberty can only be imposed upon prisoners, whether accused or awaiting their trial. The tendency of the present day is even in favor of not imprisoning those awaiting their trial, except in cases of absolute necessity. We should therefore endeavor to give our prisoners every advantage compatible with their condition, and surround them with all such comforts as do not actually interfere with the order and safety of the institution. Thus in France, prisoners are allowed to have their meals brought to them from outside, to have better bedding and even a separate room; all of course at their own expense. They may wear their own clothes and retain their beard and hair; they may correspond every day with their friends and their solicitors upon all subjects; receive frequent visits and devote to the preparation of their defence all the time they deem necessary.

"But can labor, although bearing a penal character, be looked upon as a serious aggravation? I think not. From the prisoner's point of view it is, I believe the only means to beguile the weariness and the anxiety of the days of suspense. Modern society does not admit of idleness, and where the administration of the prison systematically arranges the prison labor and directs the minds of the prisoners to recognize the benefit of work, they seldom find much difficulty in making the prisoners work with good will. I speak from long experience, and can honestly say, apart from some very serious and complicated cases, where all the attention of the prisoner is absorbed in his defense, they are glad of work and apply themselves assiduously to it.

"Exceptions to this rule are generally due to the fact that in many houses of detention the industries practised are not remunerative, bring dust and dirt with them and wear out the clothes. The prisoners object to this as it makes them unpresentable to receive their friends and their legal advisers.

"These objections deserve careful consideration, and rather favor the



idea of leaving things as they are now, that is to say that the prisoner in preventive detention is at liberty to accept or to refuse the work offered to him. Moreover, it will always be difficult in the case of preventive detentions, which are generally of comparatively short duration, to organize a suitable system of labor adaptable to all the requirements. Nevertheless the liberty of refusing to work should, I think, be limited. The fact of being imprisoned, may be innocently, should not necessarily prevent a man from earning his living. No one has a right to neglect the material things of life, or to fail to obtain them honestly. Therefore the prisoner should be compelled to work, or if financially independent, should be required to pay into the treasury such portion of the profits of which the prison is deprived through his idleness. Such profits are very small, representing only a few pence per day, yet in most cases the prisoner would be led to accept the work offered him. In order to guard the absolute liberty of the prisoners with regard to the interests of their defence, a release from paying these small obligations could always be given those who are without means and who are considered justified in spending all their time in the preparation of their defence. I think we must not stretch the point any further or admit that in sanctioning non-submission to the rule of labor, we can refuse to deduct the preventive detention from the term of penal service. Nor do I think that we ought to make a distinction between individuals with criminal records and those who are charged for the first time, chiefly for this reason. To my knowledge the prisoner who has already previously been brought to justice, almost always asks for work directly he enters the prison."

The report was summarized as follows:

"1. For the purpose of being entirely at liberty to prepare their defence, labor should not be enforced upon prisoners whether previously condemned or not.

"In any case, as the obligation to provide for himself devolves upon prisoners, even if reputed innocent, in the same degree as upon all citizens, they must support themselves or pay into the treasury that portion of the profit of the work which is due to it in accordance with the penitentiary regulations.

"In certain exceptional cases, indigent persons who are considered justified in spending all their time in the preparation of their defence, can be relieved from this obligation by special decision of the authorities."



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ABBREVIATIONS.—In the Index the following Abbreviations have been used: *pap.*, principal paper by the person named; *com.*, communication by the person named; *b.*, review of book of which the person named is the author; *n.*, note by the person named; *r.*, review by the person named.

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